



आयकर अपीलीय अधिकरण "एस एम सी" न्यायपीठ पुणेमें।
IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCHES "SMC" :: PUNE

BEFORE DR.DIPAK P. RIPOTE, ACCOUNTANT MEMBER
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.3357/PUN/2025

निर्धारण वर्ष / Assessment Year: 2022-23

Paresh Prashant Bhide, Flat NO.206, IJ Wing, Meghmalhar, Dsk Vishwa, Dhayari, Pune – 411041.	V s	Ward-12(1), Pune.
PAN: BWJPB6765M		
Appellant/ Assessee		Respondent /Revenue

Assessee by	None
Revenue by	Shri Sadananda – JCIT(DR)
Date of hearing	12/12/2026
Date of pronouncement	16/02/2026

आदेश/ ORDER

PER DR. DIPAK P. RIPOTE, AM:

This is an appeal filed by the Assessee against the order of Id.Commissioner of Income Tax(Appeal)[NFAC], passed under section 250 of the Income Tax Act, 1961 for the A.Y.2022-23 dated 14.10.2025 emanating from the Assessment Order passed under section 143(1) of the I.T.Act, dated 22.12.2022. The Assessee has raised the following grounds of appeal :

"1. Incorrect Business Income:



Section 144 Incorrect Business Income shown in Original Return The original return has been filed by mediator and he has filed return without showing actual income. The income shown is higher than actual income. Because of which the tax calculated has also gone up. The tax on it was not even paid earlier. Actual tax has been paid on 09-01-2023, after receiving order under section 143 subsection 1. But I am unable to revise the return since the due date of revision has gone past. Till last year the due date of revision was 31st March which was made to be 31st December this year. I have also reached out to Income Tax Officer to revise return from his side through offline mode. But he guided me that the same option is unavailable right now. If my income is not shown correctly in original tax return then I would like to correct it through this appeal.

2. No chance given to rectify the return

CIT (Appeal) has not given me the chance to rectify the return as said in the grounds of appeal filed before them. I have asked for the extension of time due to delay in collecting the information, but the same is also not taken into consideration.

3. Delay in hearing the appeal

Appeal before Commissioner of Income Tax (Appeal) has been filed on 20 January 2022, while the appeal is heard in September 2025. Because of this delay, my demand was pending as well as interest portion on the demand got extended.”

Findings & Analysis :

2. At the outset of hearing, no one attended for hearing on behalf of the assessee. No adjournment application filed.

Submission of Id.Departmental Representative(Id.DR) :

3. The Id.DR for the Revenue relied on the order of Assessing Officer(AO) and Id.CIT(A)[NFAC].



Findings & Analysis :

4. We have heard ld.DR for the Revenue and perused the records. In this case, ld.CIT(A) has dismissed the appeal of the assessee as assessee failed to file any reply to notices issued by ld.CIT(A). Ld.CIT(A) has not adjudicated the grounds raised by the Assessee. The relevant paragraph of ld.CIT(A) is reproduced here as under :

“4. Decision

I have carefully gone through the facts of the case and grounds of appeal submitted by the appellant. Moreover, all notices were duly served upon the appellant through email. The appellant opted not to respond the above notices for the reason best known to him. No documents were produced before me on ITBA in support of his grounds of appeal or to rebut the intimation u/s 143(1) despite given sufficient opportunities.

In view of the above facts, it is clear that the appellant is not interested in pursuing the present appeal on merits and therefore in absence of any evidence to rebut the intimation u/s 143(1), the intimation is CONFIRMED and accordingly the appeal is dismissed. Hence, all grounds of appeal raised by the appellant are dismissed.

5. In the result, the appeal is dismissed.”

5. It is observed from the order of the ld.CIT(A) that the ld.CIT(A) did not decide the grounds of appeal on merit but merely dismissed the appeal of the assessee for non-compliance.

6. The Hon’ble Bombay High Court has held in the case of Pr.CIT(Central) Vs. Premkumar Arjundas Luthra (HUF) (Bombay)/[2017] 297 CTR 614 (Bombay) as under :

Quote, “8.From the aforesaid provisions, it is very clear once an appeal is preferred before the CIT(A), then in disposing of the appeal, he is



obliged to make such further inquiry that he thinks fit or direct the Assessing Officer to make further inquiry and report the result of the same to him as found in Section 250(4) of the Act.

Further Section 250(6) of the Act obliges the CIT(A) to dispose of an appeal in writing after stating the points for determination and then render a decision on each of the points which arise for consideration with reasons in support. Section 251(1)(a) and (b) of the Act provide that while disposing of appeal the CIT(A) would have the power to confirm, reduce, enhance or annul an assessment and/or penalty. Besides Explanation to sub-section (2) of Section 251 of the Act also makes it clear that while considering the appeal, the CIT(A) would be entitled to consider and decide any issue arising in the proceedings before him in appeal filed for its consideration, even if the issue is not raised by the appellant in its appeal before the CIT(A). Thus once an assessee files an appeal under Section 246A of the Act, it is not open to him as of right to withdraw or not press the appeal. In fact the CIT(A) is obliged to dispose of the appeal on merits. In fact with effect from 1st June, 2001 the power of the CIT(A) to set aside the order of the Assessing Officer and restore it to the Assessing Officer for passing a fresh order stands withdrawn.

Therefore, it would be noticed that the powers of the CIT(A) is coterminous with that of the Assessing Officer i.e. he can do all that Assessing Officer could do. Therefore just as it is not open to the Assessing Officer to not complete the assessment by allowing the assessee to withdraw its return of income, it is not open to the assessee in appeal to withdraw and/or the CIT(A) to dismiss the appeal on account of non-prosecution of the appeal by the assessee. This is amply clear from the Section 251(1)(a) and (b) and Explanation to Section 251(2) of the Act which requires the CIT(A) to apply his mind to all the issues which arise from the impugned order before him whether or not the same has been raised by the appellant before him. Accordingly, the law does not empower the CIT(A) to dismiss the appeal for non-prosecution as is evident from the provisions of the Act.” Unquote.



6.1 Thus, the Hon'ble Bombay High Court has categorically held that Id.CIT(A) has to decide the appeal on merit and Id.CIT(A) does not have any power to dismiss appeal for non-prosecution.

7. In view of the above, in the interest of justice, we set-aside the order of the Id.CIT(A) to Id.CIT(A) for denovo adjudication. Ld.CIT(A) shall provide opportunity to the assessee. Assessee shall file all the necessary documents before the Id.CIT(A). Accordingly, grounds of appeal raised by the assessee are allowed for statistical purpose.

8. In the result, appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open Court on 16 February, 2026.

Sd/-

VINAY BHAMORE
JUDICIAL MEMBER

Sd/-

Dr.DIPAK P. RIPOTE
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 16 Feb, 2025/ SGR

आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.
5. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, "एस एम सी" बेंच, पुणे / DR, ITAT, "SMC" Bench, Pune.
6. गार्डफ़ाइल / Guard File.



ITA No.3357/PUN/2025 [A]

आदेशानुसार / BY ORDER,

/ / TRUE COPY / /

सहायक रजिस्ट्रार /Assistant Registrar
आयकर अपीलीय अधिकरण, पुणे/ITAT, Pune.