

आयकर अपीलिय अधिकरण, 'बी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH: CHENNAI

सुश्री पदमावती यस, लेखा सदस्य एवं श्री मनु कुमार गिरि, न्यायिक सदस्य के समक्ष
BEFORE MS. PADMAVATHY.S, ACCOUNTANT MEMBER AND
SHRI MANU KUMAR GIRI, JUDICIAL MEMBER

आयकर अपील सं./ITA No.3854/Chny/2025
निर्धारण वर्ष /Assessment Year: 2020-21

Kathirvelu Subbarayan,
No.3/2, NGO Colony, 2nd Street,
Pazhavanthangal, St. Thomasmount,
Chennai – 600 016.
PAN: CXJPS 2254Q

The Income Tax Officer,
Vs. Non Corporate Ward-19(4),
Chennai.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by
प्रत्यर्थी की ओर से /Respondent by

: Mr. Subash Anbaraju.K, Advocate
: Ms. Gouthami Manivasagam, Addl.CIT

सुनवाई की तारीख/Date of Hearing
घोषणा की तारीख /Date of Pronouncement

: 13.02.2026
: 17.02.2026

आदेश / ORDER

PER PADMAVATHY.S, A.M:

This appeal by the assessee is against the order of the Commissioner of Income Tax (Appeals)/National Faceless Appeal Centre (NFAC), Delhi, (in short "CIT(A)") passed u/s. 250 of the Income Tax Act, 1961 (in short "the Act") dated 12.09.2025 for Assessment Year (AY) 2020-21.

2. The assessee is an individual and did not filed the return of income for the assessment year 2020-21. The assessing officer received information that the assessee has sold property for consideration of Rs.25,00,000/-. Therefore the assessing officer issued the notice under section 148A(b) on 03.02. 2024.

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The assessing officer subsequently passed an order under section 148A(d) on 28.03.2024 and also reopened the assessment by issuing notice under section 148 of the act. Since the assessee did not respond to the show cause notice the assessing officer concluded the assessment by adding a sum of Rs.50,00,000 being the entire sale consideration as long-term capital gain in the hands of the assessee. Aggrieved the assessee filed before the CIT(A). The CIT(A) dismiss the appeal by invoking the provisions of section 249(4) of the act stating that the assessee has not paid an amount equal to the amount of advance tax payable by him. The assessee is in appeal before the tribunal against the order of the CIT(A).

3. We heard the parties and perused the material on record. In the present case the assessing officer reopened the assessment on the ground of the assessee though has entered into transaction towards sale of immovable property failed to filed the return of income. The assessing officer while concluding the assessment made an addition towards the entire sale consideration under the head long-term capital gains. In other words the obligation to pay tax arises out of the assessed income in the hands of the assessee. The CIT(A) dismiss the appeal stating that the assessee has not paid the advance tax and therefore the appeal is not maintainable under section 249(4) of the act. Before proceeding further we will look at the relevant provisions of the act which read as under –

249 - Form of appeal and limitation.

(4) No appeal under this Chapter shall be admitted unless at the time of filing of the appeal,—

- (a) where a return has been filed by the assessee, the assessee has paid the tax due on the income returned by him; or*
- (b) where no return has been filed by the assessee, the asssssessees has paid an*

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amount equal to the amount of advance tax which was payable by him:

4. In our considered view the statutory requirement contemplated in clause (b) of sub-section (4) of section 249 would be triggered only where any obligation was cast upon the assessee to pay 'advance tax'. In other words the appeal could not be admitted where the assessee fails to pay the tax on the admitted income and not "assessed income". In the given case the assessee is contending that the return of income is not filed for the reason that his income for the year under consideration is below the taxable limit. Accordingly, the income assessed as long-term capital gain is not an admitted income but is an assessed income in the hands of the assessee and that the obligation to pay advance tax for the purpose of section 249(4) does not arise. Therefore we are of the considered view that the CIT(A) is not correct in dismissing the appeal on the ground that the assessee has not paid the tax on the assessed income. Having held so we notice that the order of assessment is passed ex parte the assessee did not respond to the notices issued by the assessing officer. The Ld. AR during the course of hearing prayed for one more opportunity to represent the case properly before the lower authorities. Considering the facts and circumstances peculiar to assessee's case, we are inclined to give one more opportunity to the assessee by producing the required details. Accordingly we remit the back to the AO with the direction to call for necessary details and decide the issue in accordance with law. The assessee is required to submit the necessary details as may be called for and cooperate with assessment proceedings. It is ordered accordingly.

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5. In result the appeal of the assessee is allowed for statistical purposes.

Order pronounced on 17th day of February, 2026 at Chennai.

Sd/-

(मनु कुमार गिरि)

(Manu Kumar Giri)

न्यायिक सदस्य / Judicial Member

Sd/-

(पदमावती यस)

(Padmavathy.S)

लेखा सदस्य / Accountant Member

चेन्नई/Chennai, दिनांक/Dated: 17th February, 2026.

EDN, Sr. P.S

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT, Chennai/Madurai/Coimbatore/Salem
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF