

**IN THE INCOME TAX APPELLATE TRIBUNAL
“F” BENCH MUMBAI**

**BEFORE HON’BLE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER &
HON’BLE SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER**

**ITA No.5155/Mum/2025
(Assessment Year: 2011-12)**

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| Vijay Lalitchandra Parekh Vastu Subh A Wing Ground Floor Rajamata Jijabai Road Pump House Andheri East, Mumbai – 400093 | Vs. | Assistant Commissioner of Income Tax 25.1 Kautilya Bhuvan BKC Bandra East, Mumbai- 400051 |
| PAN/GIR No. AIUPP3044K | | |
| (Applicant) | | (Respondent) |

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| Assessee by | Shri Vimal Punmiya |
| Revenue by | Ms. Kavitha Kaushik, Sr.DR. |

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| Date of Hearing | 29.01.2026 |
| Date of Pronouncement | 19.02.2026 |

आदेश / ORDER

PER SANDEEP GOSAIN, JM:

The present appeal has been filed by the assessee challenging the impugned order 25.09.2024 passed u/s 250 of the Income Tax Act, 1961 (‘the Act’), by the for the assessment year 2011-12. The following grounds are reproduced below:

“1. (iv) Notice has been issued on the basis of information received which is not independently verified by the Assessing Officer (v) The Assessing Officer acted only on the basis of suspicion and it cannot be said that

notice under section 148 of the Act is based on his belief that the income chargeable to tax had escaped income. (vi) Notice under section 148 of the Act is issued for making roving enquiry which is not permitted in law.

2. *On the facts and circumstances of the case and in law notice issued under section 143(2) of the Act dated 14.09.2018 is not in conformity with instruction issued by Central Board of Direct Taxes F.No.225/157/2017/ITA-II dated 23.06.2017, which are binding on him and therefore notice issued under section 143(2) of the Act is invalid and make subsequent assessment also invalid and liable to be annulled*

3. *On the facts and circumstances of the case and in law notice issued under section 148 of the Act is contrary to the provisions of the Act, without jurisdiction, illegal, bad in law in as much as (i) Reason recorded by Assessing Officer does not depict escapement of income by the appellant. (ii) There is no tangible material in possession of the Assessing Officer. (iii) Notice has been issued on the direction of DCIT, Central Circle 4(2), Mumbai*

4. *On the facts and the circumstances of the case and in law the learned Commissioner of Income Tax - Appeals erred in confirming addition made of Rs.4154400/- under section 68 of the Act by the learned Assessing Officer. Provisions of the Act ought to have been properly construed and regard being had to facts of the case addition of Rs.4154400/- should not have been confirmed.*

5. *On the facts and in the circumstances of the case and in law the learned Commissioner of Income tax - Appeals erred in confirming rejection of Book of Accounts invoking provision of section 145 of the Act.*

6. *The learned Commissioner of Income Tax Appeals erred in confirming charging of interest under section 234A, 234B, 234C and 234D of the Act.*

7. *The appellant crave leave to add, amend, alter and/OR vary any of the grounds of appeal before OR at the time of hearing*

8. *The learned Commissioner of Income Tax (Appeals) erred in confirming order made under section 143(3) rws 147 of the Act which is contrary to the provisions of the Act, illegal, bad-in-law, ultra vires, without allowing reasonable opportunity of the hearing, without appreciating facts, submission and evidences in their proper perspective, without providing copies of material*

relied upon, without providing opportunity to cross examine of witnesses, is liable to be annulled.

9. *On the facts and the circumstances of the case and in law the learned Commissioner of Income Tax Appeals erred in confirming addition of Rs.4154400/- made under section 68 of the Act inspite of the fact that books of accounts have been rejected by the learned Assessing Officer, thus provision of section 68 of the Act is not applicable.”*

2. At the very outset, we noticed that assessee was ex-parte before AO and Ld. CIT(A) and in this regard Ld. AR has explained sufficient cause which prevented him for non appearance before the AO and Ld. CIT(A). On the other hand, Ld. DR relied upon the orders passed by the Ld. CIT(A).

3. Be that as it may, without going into the merits of the issues raised by the assessee and considering the fact, the Bench is of the view that one more opportunity be given to the assessee to represent his case before AO. Therefore considering the overall circumstances of the present case, we deem it proper to set aside the orders of Ld. CIT(A) and restore the matter back to the file of AO for denovo assessment by providing adequate opportunity to the assessee subject to cost of Rs. 5,000/- which shall be deposited by the assessee in the Prime Minister's Relief Fund and a copy of the receipt shall be placed on file before AO within 30 days from the date of receipt of this order. The assessee shall not seek any adjournment on

frivolous grounds and shall remain cooperative during the course of proceedings.

4. Before parting, we make it clear that our decision to restore the matter back to the file of the AO shall in no way be construed as having any reflection or expression on the merits of the dispute which shall be adjudicated by the Ld. AO independently in accordance with law.

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

Order pronounced in the open court on 19.02.2026

Sd/-

(BIJAYANANDA PRUSETH)
ACCOUNTANT MEMBER

Sd/-

(SANDEEP GOSAIN)
JUDICIAL MEMBER

Mumbai, Dated 19/02/2026

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त (अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुम्बई/ DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/BY ORDER,

उप/सहायक पंजीकार (Asst. Registrar)
आयकर अपीलीय अधिकरण, मुम्बई/ ITAT, Mumbai