

आयकर अपीलीय अधिकरण न्याय पीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“E” BENCH, MUMBAI

BEFORE SHRI AMIT SHUKLA, JM &
SHRI ARUN KHODPIA, AM

I.T.A. No. 8024/Mum/2025
(Assessment Year: 2014-15)

Mr. Kailash Prakash Karamchandani, 401-405, Corporate Centre, Nirmal Lifestyle, LBS Marg, Mulund (West), Mumbai-400080. PAN: AHAPK3447N	Vs.	Dy. CIT, CC-6(1), Air India Building, Nariman Point, Mumbai-400021.
Assessee - अपीलार्थी / Appellant	:	Revenue - प्रत्यर्थी / Respondent

Assessee by : Shri Akash Kumar (Virtually appear), AR

Revenue by : Shri Himanshu Joshi, Sr. DR

Date of Hearing : 16.02.2026

Date of Pronouncement : 17.02.2026

ORDER

Per Arun Khodpia, AM:

This captioned appeal is preferred by the assessee against the order of Commissioner of Income Tax (Appeals)-54, Mumbai (“Ld. CIT(A)”) dated 05.11.2025 for the assessment year 2014-15, which in turn arises from the order Assessing Officer (AO) dated 31.12.2017 under section 143(3) of the Income Tax Act, 1961 (the Act). The grounds of appeal raised by assessee are as under:

“The following grounds of appeal are independent of, and without prejudice to, one another-

1. The Commissioner of Income-tax (Appeals)-54 (hereinafter referred to as the CIT(A)) erred in framing an ex parte order.

The appellant contends that on the facts and in the circumstances of the case and in law, the CIT(A) ought not to have passed an ex parte order.

2. The CIT(A) erred in not disposing of the following ground of appeal on merits

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Grounds of Appeal	Issue	Grounds of Appeal
Relevant section (s) of IT/Act 2(22)(e)	Deemed dividend	Appellant have affected the business transactions with related parties and amount received is against sale and not loan as considered by the learned assessing officer which is wholly unjustified and unreasonable.

The appellant contends that on the facts and in the circumstances of the case and in law, the CIT(A) ought to have disposed of the aforesaid ground of appeal on merits.”

2. Briefly stated, the assessee is engaged in the business of trading of Mobile Handsets, has filed his return of income for the AY 2014-15 on 30.11.2014 declaring a total income of Rs. 1,29,13,870/-. The case of assessee was selected for scrutiny under CASS. Accordingly notice under section 143(2) and 142(1) of the Act was issued. During the assessment proceedings certain issues were raised by the ld. AO for which requisite information and submissions were made by the assessee, however the assessment was completed

with the addition under section 2(22)(e) of the Act for Rs. 38,76,790/- and Rs. 69,13,475/-.

3. Being aggrieved with the aforesaid addition assessee preferred the appeal before the Id. CIT(A), however the appeal of assessee has been dismissed *in limine* on account of non-prosecution.

4. To assail the aforesaid order of Id. CIT(A) the assessee is in present appeal before us.

5. At the outset, the Id. AR of the assessee submitted that in present matter due the assessee was unable to respond before the Id. CIT(A) on the dates when the case was fixed before him, the non-appearance was purely inadvertent and non-deliberate. It was submitted that even otherwise there was no adjudication by the Id. CIT(A) on merits of the issues, therefore it was the prayer that the matter may please be restored back to the file of Id. CIT(A) for fresh adjudication.

6. Per contra, the Id. SR. DR representing the revenue vehemently supported the orders of Id. CIT(A).

7. We have considered the rival submissions and perused the material available on record. Admittedly in present case, the assessee was non-compliant before the Id. CIT(A) on 14 occasions when the response was sought by the

First Appellate Authority (FAA). Though, no reasonable cause or reasons are set out by the ld. AR before us in support of the contention that the assessee was unable to furnish necessary submissions under circumstances beyond his control, we observed that there was no adjudication on merits by the ld. CIT(A) which is mandatory in terms of provisions of section 250(4) & (6) of the Act. We thus in terms of these observations are of the considered view that the present matter needs fresh adjudication by ld. CIT(A), consequently we set-aside the impugned order of ld. CIT(A) and restore the matter back to his file for fresh adjudication. Our aforesaid view is duly supported by the decision of Hon'ble Bombay High Court in the case of **CIT vs. Premkumar Arjundas Luthra (HUF)- [2016] 69 taxmann.com 407 (Bombay)** wherein the Hon'ble High Court has held as under:

"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 AO to make further inquiry and report the result of the same to him as found in Sec. 250 of the Act. Further, Sec. 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. Sec. 251(1)(a) and (h) 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-s. (2) of [s. 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 [s. 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 w.e.f. 1st June, 2001 the power of the CIT(A) to set aside the order of the AO and restore it to the AO for passing a fresh order stands withdrawn.** Therefore, it would be noticed that the powers of the CIT(A) are co-terminus with that of the AO i.e. he can do all that A.O could do. Therefore, just as it is not open to the AO 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 [s. 251\(1\)\(a\)](#) and (b) and Explanation to Sec. 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.”

8. In result, the appeal of assessee is **allowed for statistical purposes**, in terms of our aforesaid observations.

Order pronounced in the open court on 17-02-2026.

Sd/-
(AMIT SHUKLA)
Judicial Member

Mumbai, Dated : 17-02-2026.
**SK, Sr. PS*

Sd/-
(ARUN KHODPIA)
Accountant Member

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. DR, ITAT, Mumbai
4. Guard File
5. CIT

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai