



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.3237/PUN/2025

निर्धारण वर्ष / Assessment Year: 2016-17

Pradeep Madhukar Thombre, 101, Padmini Niwas, Prashant Nagar, Ambajogai – 431517.	V s	The Income Tax Officer, Ward-1(5), Aurangabad.
PAN: AAPPT7315L		
Appellant/ Assessee		Respondent /Revenue

Assessee by	Shri Shubham N Rathi (Virtual)
Revenue by	Shri Sadananda – JCIT(DR)
Date of hearing	10/02/2026
Date of pronouncement	11/02/2026

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.2016-17 dated 04.11.2025 emanating from the Assessment Order passed under section 147 read with section 144B of the I.T.Act, 1961 dated 12.04.2023. The Assessee has raised the following grounds of appeal :



“1. BREACH OF PRINCIPLES OF NATURAL JUSTICE

1.1 *The Learned Commissioner of Income Tax (Appeals), erred in passing the order u/s 250 by not granting proper, sufficient and adequate opportunity of being heard to the Appellant while framing assessment.*

1.2 *While doing so, the Ld. CIT(E) failed to appreciate that as per the principles of natural justice, providing an adequate opportunity of being heard to the assessee is mandatory before passing the adverse order.*

1.3 *In the above circumstances, it is humbly prayed to set aside the order passed by the CIT(A).*

2. THE CHALLENGE TO REASSESSMENT

2.1 *The Learned Commissioner of Income Tax (Appeals) [‘the Ld. CIT’] has erred in not considering the ground of challenge to reassessment proceedings before dismissing the appeal.*

2.2 *On the facts and in the circumstances of the case, the Learned Income Tax Officer, Ward 1(1), Aurangabad [‘The Ld. JAO’] has initiated the reassessment proceedings without fulfilling the preconditions required to initiate the reassessment proceedings U/s 148-151 of the Act.*

2.3 *On the facts and in the circumstances of the case, the sanction obtained u/s 151 for the issuance of notice u/s 148 and the order passed u/s 148A(d) are from the wrong authority.*

2.4 *In the above circumstances, facts and in law, the Appellant submits that the initiation of reassessment proceedings in the present case is without jurisdiction*

WITHOUT PREJUDICE TO THE ABOVE

3. NOTICE U/S 143(2) OF THE ACT IS NOT ISSUED/SERVED



3.1 *The Ld. CIT(A) erred in not considering the ground of challenge to an assessment order u/s 147 r.w.s. 144B passed without issuing statutory notice u/s 143(2) of the Act.*

3.2 *On the facts, circumstances and in law, passing of the assessment order without issuing the notice u/s 143(2) is nullity and bad in law.*

3.3 *Therefore, it is prayed before Your Honour to quash the assessment order.*

WITHOUT PREJUDICE TO THE ABOVE

4. THE NOTICE U/S 148 IS NOT IN ACCORDANCE WITH THE PROVISIONS OF SECTION 151A

4.1 *The Ld. JAO has erred in assuming the jurisdiction to issue the notice u/s 148 which is in non-compliance to the provisions of section 151A of the Act.*

4.2 *It is submitted that in the facts and in the circumstances of the case and in law, the notice issued u/s 148 of the Act in the present case is bad in law and therefore deserves to be quashed.*

WITHOUT PREJUDICE TO THE ABOVE

5. THE NOTICE ISSUED DURING ASSESSMENT IS IN VIOLATION OF CIRCULAR 19/2019 DATED 14.08.2019

5.1 *The notice issued u/s 148 of the Act by the Ld. JAO is void ab initio as the notice is issued contrary to the CBDT Circular No. 19/2019 dated 14.08.2019*

5.2 *In the above circumstances, the assessment order deserves to be quashed.*

WITHOUT PREJUDICE TO THE ABOVE

ON MERITS

6. ADDITION U/S 69A OF THE ACT OF ₹ 30,00,000/-



6.1 On the facts of the case and in law, the Ld. CIT(A) has erred in confirming the addition of ₹ 30,00,000/- u/s 69A of the Act. The Ld. CIT(A) affirmed such addition without even considering the material facts and documents on record.

6.2 It is also submitted that on the facts of the present case and in law, the provisions of section 69A r.w.s. 115BBE is not attracted.

6.3 In the above facts and circumstances and in law, the addition made u/s 69A of Rs. 30,00,000/- is bad in law and deserves to be deleted.

7. LEAVE

The Appellant craves leave to add, alter, amend or delete any of the above grounds of appeal.”

Submission of Id.AR :

2. The Id.Authorised Representative(Id.AR) for the Assessee submitted that assessee’s appeal was dismissed by the Id.CIT(A) without discussing each and every ground and merits of the case and merely dismissed for non-compliance. Ld.AR submitted that Assessee may be provided one more opportunity to file details before the Id.CIT(A).

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 both the parties and perused the records. In this case, Id.CIT(A) has dismissed the appeal of the assessee as assessee failed to file any reply to notices issued by Id.CIT(A). Ld.CIT(A) has not adjudicated the grounds raised by the Assessee. Ld.AR submitted that one more opportunity may be provided to the Assessee.

4.1 Ld.CIT(A) held as under :

“5.10 In view of the above discussion, arguments by the appellant and the AO, facts and material considered and the fact that in-spite of several opportunities granted, the appellant has not furnished any submission in support of the grounds of appeal during the appeal proceeding, I see no reason to disturb the categorical findings of the assessing officer regarding these additions. Hence, grounds of appeal raised by the appellant are dismissed.”

5. It is observed from the order of the Id.CIT(A) that the Id.CIT(A) did not decide the grounds of appeal on merit but merely dismissed the appeal of the assessee for non-compliance. The Id.CIT(A) has not adjudicated grounds raised by the assessee on merits.



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 11 February, 2026.

Sd/-
VINAY BHAMORE
JUDICIAL MEMBER

Sd/-
Dr.DIPAK P. RIPOTE
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 11 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.

आदेशानुसार / BY ORDER,

/ / TRUE COPY / /

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