

**IN THE INCOME-TAX APPELLATE TRIBUNAL, MUMBAI "K" (SMC) BENCH, MUMBAI  
BEFORE SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER AND  
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER  
ITA No. 8130/MUM/2025 (AY:2007-08)**

SKM Steel Ltd.(SKM Alloys Pvt. Ltd.), 2 <sup>nd</sup> Floor Shri Gajanan Darshan Building 30 C.P Tank Road, Mumbai-400004.	<b>vs.</b>	CIT(A) 49 Commissioner of Income Tax, Pratihtha Bhawan Mumbai-4000020.
<b>PAN/GIR No: AADCS7801F</b>		
(Appellant)		(Respondent)

<b>Appellant by</b>	Shri Mahaveer Jain & Mr. Mansvi Singh
<b>Respondent by</b>	Shri Bhagirath Ramawat (SR DR)
<b>Date of Hearing</b>	17.02.2026
<b>Date of Pronouncement</b>	26.02.2026

**ORDER**

**PER BIJAYANANDA PRUSETH, AM:**

This appeal filed by the assessee emanates from the order passed under section 250 of the Income-tax Act, 1961 (in short, 'Act') by the Commissioner of Income-Tax (Appeals) 49, Mumbai [in short, 'CIT(A)'], dated 29.05.2025 for the assessment year (AY) 2007-08.

2. The grounds of appeal raised by the assessee are as under:

*“(1) On the facts and in law, the learned CIT(A) erred in dismissing the appeal on the ground that order under appeal is not on record, without appreciating the fact that appeal was filed in physical form containing Form 35, Statement of Facts, Grounds of Appeal and copy of order appealed against, and the same could have been obtained from the department.*

*(2) On the facts and in law, the learned CIT (A) erred in accepting the reopening of assessment u/s 147 for assessing the lease income from letting of factory premises alongwith Plant & Machinery as 'Income from House Property as against 'Business Income' claimed in the return of income, which was otherwise accepted as such in the original assessment order passed u/s 143(3) for the same year and for the preceding year, thus resulting into change of opinion.*

*(3) On the facts and in law, the learned CIT(A) erred in dismissing the appeal and accepting the treatment of lease income as income from House Property by the learned AO by relying on the decision of the Hon. Supreme Court in the case of Universal Plast Limited vs CIT 237 ITR 454, without appreciating that the facts of the case were different from those of the appellant's case.*

*(4) Appellant prays for leave to add, amend or delete any ground/s of appeal on or before the final date of hearing.”*

3. Facts of the case in brief are that the assessee filed its return of income for the AY 2007-08 on 24.09.2007 declaring total income at Rs.1,52,375/-. Subsequently, the case was reopened u/s 147 of the Act and notice u/s 148 was issued on 22.01.2014. The assessee submitted that the original return may be treated as the return u/s 148 of the Act. After hearing assessee, the total income was determined at Rs.5,55,735/- vide order u/s 143(3) rws 147 of the Act dated 30.09.2014. Aggrieved by the order of AO, the assessee filed appeal before the CIT(A). The CIT(A) has noted that 12 opportunities were granted to the assessee but it did not file any reply. Considering that the appellant did not respond to any of the notices and since no documents were filed, the appeal was dismissed.

4. Aggrieved by the order of CIT(A), the assessee filed appeal before the Tribunal. The Ld. AR has filed an affidavit of the Director of the appellant company,

Shri Amit Kirtilal Shah and submitted that the assessee had filed replies vide letters dated 01.10.2025 and 03.10.2025, but the same were not all considered by the CIT(A). He has submitted copies of the above replies before the Tribunal. In the affidavit, it is submitted that neither the appellant nor its AR received any notice mentioned in the order. The only notice received by it was the last notice dated 05.09.2025. The appellant intended to reply the same in online mode but was unable to do so due to technical difficulty in accessing the IT portal. Hence, reply in physical mode was filed and subsequently, on physical visit to the office of CIT(A), it was found that the appellate order has already been passed by him. In view of these facts, it was submitted that non-appearance before CIT(A) was neither willful nor deliberate but was solely due to non-receipt of the notices and technical difficulties. Hence, he requested that another opportunity may be given to the assessee to plead its case on merit.

5. On the other hand, the Ld. Sr. DR of the revenue has supported the order of the CIT(A). He would, however, have no objection if the matter is set aside to the file of CIT(A) for fresh adjudication.

6. We have heard both parties and perused the materials on record. The director of the appellant company has filed an affidavit and stated that except the last notice, no other notice was received by the appellant. He has also submitted copies of the reply physically filed in the office of the CIT(A). He further submitted

that there were technical difficulties in accessing the official portal of the IT department. The Ld. Sr. DR of revenue has not controverted the submission of the appellant and agreed that the matter may be restored to the CIT(A). Considering the facts discussed above, in the interest of justice, we deem it proper to set aside the order of CIT(A) and restore the matter to his file for re-adjudication in accordance with law after granting adequate and reasonable opportunity of being heard to the assessee. The assessee is directed to file reply and details by not seeking adjournment with valid reasons. Accordingly, the grounds are allowed for statistical purpose.

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

Order is pronounced on 26.02.2026.

**Sd/-**  
**(RAHUL CHAUDHARY)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(BIJYANANDA PRUSETH)**  
**ACCOUNTANT MEMBER**

\*Aniket Chand; Sr. PS  
MUMBAI

Date: 26.02.2026

**Copy of the Order forwarded to:**

1. The Assessee
2. The Respondent
3. The CIT(A)
4. CIT
5. DR/AR, ITAT, MUMBAI
6. Guard File

By Order

Assistant Registrar  
ITAT, MUMBAI