

**IN THE INCOME TAX APPELLATE TRIBUNAL**

**"E" BENCH, MUMBAI**

**BEFORE SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER**

**SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER**

**ITA No. 9270/Mum./2025**

**(Assessment Year : 2017-18)**

**Kailash Properties,**

Shop No.2, Manek Complex,  
Plot No.16, Sector 29,  
Vashi, Navi Mumbai – 400703  
PAN : AAMFK0588M

..... Appellant

v/s

**Assistant Commissioner of Income Tax,  
Range - 28(2),**

Room No.307, 3<sup>rd</sup> Floor, Tower 6,  
Vashi Railway Station Complex,  
Vashi, Navi Mumbai – 400703

..... Respondent

Assessee by : Shri Mayur Makadia

Revenue by : Shri Hemanshu Joshi, SR. DR

Date of Hearing – 18/03/2026

Date of Order – 27/03/2026

**ORDER**

**PER SANDEEP SINGH KARHAIL, J.M.**

The assessee has filed the present appeal against the impugned order dated 04/11/2025, passed under section 250 of the Income Tax Act, 1961 (*"the Act"*) by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*"learned CIT(A)"*], for the assessment year 2017-18.

2. In this appeal, the assessee has raised the following grounds: -

*"1. On the facts and circumstances of the case and in law, the Ld. CIT (A) erred in dismissing the appeal of the Appellant ex-parte.*

*2. On the facts and circumstances of the case and in law the Ld. CIT(A) erred in sustaining the additions of Rs. 1,42,15,016 made by the AO solely on the basis of estimation of income at time of survey as against the project completion method adopted by the appellant.*

*3. On the facts and circumstances of the case and in Law, the Ld. CIT (A) failed to appreciate that even though the appellant was following project completion method of accounting, estimated profit was being offered every year and the WIP was accordingly carried forward. The AO further failed to appreciate that the appellant had declared an overall profit of Rs. 8,75,68,982 which is much more than the estimated profit.*

*4. On the facts and circumstances of the case and in Law, the Ld. CIT (A) failed to appreciate that the Assessing Officer had made the impugned addition without considering the appellant's reply Dt. 25.12.2019 to the Show Cause Notice of the AO."*

3. We have considered the submissions of both sides and perused the material available on record. In the present case, at the outset, it is evident that the learned CIT(A) has passed the order *ex parte* due to the non-appearance of/on behalf of the assessee. Now, in the appeal before us, the assessee is duly represented by the learned AR and wishes to pursue the litigation against the addition made by the AO. During the hearing, explaining the reasons for non-compliance with the notices issued by the learned CIT(A), the learned AR placed on record the affidavit of the partner of the assessee company, submitting as follows: -

*"1. I am one of the partners of M/s. Kailash Properties, the appellant in the above matter and am duly authorised to affirm this affidavit on behalf of the appellant firm. I am well acquainted with the facts of the case and therefore competent to depose the present affidavit.*

*2. The appellant has filed an appeal before the Hon'ble Income Tax Appellate Tribunal against the ex-parte order passed by the Ld. CIT (A) on 4<sup>th</sup> November 2025.*

*3. I state that the appellant firm was engaged in the business of real estate construction and development. The business of the firm underwent a downturn post COVID and serious differences and disputes arose between the partners of the appellant firm. As a result, there was no business undertaken by the*

*firm post 31 March 2021 and since then the firm has remained non-operational.*

*4. I state that due to the above circumstances, I had shifted to the State of Manipur where I started a new business activity for my livelihood.*

*5. I state that all our tax matters were being handled by Tax Practitioner Shri Vinubhai Patel who unfortunately expired during the COVID Period.*

*6. I respectfully submit that during the relevant period when the appeal proceedings were pending before the Commissioner of Income Tax (Appeals), the State of Manipur witnessed significant ethnic disturbances and law-and-order issues, which resulted in severe disruption of normal life, communication and business activities. Moreover, post the demise of our tax practitioner and due to the closure of business activities of the firm and also due to the disputes amongst the partners, fresh Chartered Accountant/ Tax practitioner could not be appointed and as such the appellant was unable to effectively monitor and pursue the appellate proceedings before the learned Commissioner of Income Tax (Appeals).*

*7. I state that it was never the intention of the appellant to disregard or ignore the notices issued by the learned Commissioner of Income Tax (Appeals). The non-appearance in response to the notices occurred solely due to the exceptional circumstances explained hereinabove.*

*8. Consequently, the appeal came to be disposed of ex-parte by the learned Commissioner of Income Tax (Appeals) without the appellant being able to present its submissions and evidences on merits.*

*9. I respectfully submit that the appellant has a strong case on merits, and in the interest of justice it is necessary that the matter be restored or adjudicated after providing the appellant with a reasonable opportunity of being heard."*

4. Therefore, in view of the above, we are of the considered opinion that, in the interest of justice, the assessee be hereby granted one more opportunity to represent its case on merits before the learned CIT(A). Consequently, we deem it fit and proper to set aside the impugned order and restore the matter to the file of the learned CIT(A) for *de novo* adjudication of the appeal on merits, after considering all the details/submissions as may be filed by the assessee. Needless to mention, no order shall be passed without affording a reasonable and adequate opportunity of hearing to the parties. Further, the assessee is directed to furnish/update its Email address

in the records before the learned CIT(A) so that the hearing notice(s) are sent to the operational email address. Thus, the assessee is directed to appear before the learned CIT(A) on all dates of hearing as may be fixed without any default. Accordingly, the grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open Court on 27/03/2026

**Sd/-  
OM PRAKASH KANT  
ACCOUNTANT MEMBER**

**Sd/-  
SANDEEP SINGH KARHAIL  
JUDICIAL MEMBER**

**MUMBAI, DATED: 27/03/2026**  
*Prabhat*

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Mumbai; and*
- (5) *Guard file.*

By Order

Assistant Registrar  
ITAT, Mumbai