

**IN THE INCOME TAX APPELLATE TRIBUNAL
"C" BENCH MUMBAI**

**BEFORE HON'BLE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER &
HON'BLE SHRI JAGADISH, ACCOUNTANT MEMBER**

**ITA No. 5470/Mum/2025
(Assessment Year: 2018-19)**

Piyush Vinod Shah C 304, Agrawal Residency, Shankar Lane, Kandivali West Mumbai - 400067	Vs.	Income Tax Officer, Ward 42(1)(4) Room No. 733, Kautilya Bhavan, C-41 to C-43, G Block, BKC, Bandra (East) Mumbai - 400051
PAN/GIR No. AKJPS6868F		
(Applicant)		(Respondent)

Assessee by	Shri Tanzil Padvekar, Adv
Revenue by	Shri Virabhadra Mahajan, (SR. DR.)

Date of Hearing	04.03.2026
Date of Pronouncement	01.04.2026

आदेश / ORDER

PER SANDEEP GOSAIN, JM:

The present appeal has been filed by the assessee challenging the impugned order 07.05.2024 passed u/s 250 of the Income Tax Act, 1961 ('the Act'), by the National Faceless Appeal Centre, Delhi (NFAC) for the assessment year 2018-19. The following grounds are reproduced below:

"1. On the facts and in law, the Learned Commissioner of Income Tax (Appeals) [CIT(A)] erred in dismissing the appeal filed by the Appellant for non-prosecution, without

considering the merits of the case. The impugned order passed by the Ld. CIT(A) is in gross violation of the provisions of the Act. As per section 251(1)(a) and (b) read with the Explanation to section 251(2), the CIT(A) is required to adjudicate the appeal on merits and cannot dismiss the same for non-prosecution.

2. On the facts and in law, Assessing Officer [in short AO] has assessed the difference in the reckoner value and CII inflated cost of assessee and the calculation of Capital Gains as per the AO is as follows LTCG is full value of consideration less indexed value of cost of acquisition add cost of improvement Rs. 1,22,27,765 less Rs. 52,34,344 Rs. 69,93,413 i.e., the Addition under Section 50C of the Act.

3. The appellant craves, leave to add to alter, modify, revise, or delete any ground (s) in the interest of justice.
”

2. At the very outset, we note that there is a delay of approximately 400 days in filing the appeal before us. Considering the entire factual position as explained before us, we are inclined to condone the delay in filing the appeal, subject to a cost of ₹5,000/- to be paid by the assessee, which shall be deposited in the **Prime Minister's Relief Fund**. Consequently, the delay is condoned, and the appeal is admitted for hearing on merits.

3. From the records, we also noticed that assessee was ex-parte before Ld. CIT(A) and consequently, considering the documents placed on record, Ld. CIT(A) dismissed the appeal.

4. Be that as it may, without going into the merits of the issues raised by the assessee and considering the fact that the assessee could not put effective representation before Ld. CIT(A). Therefore, considering the interest of justice, the Bench is of the view that one more opportunity be given to the assessee to represent his case before Ld. CIT(A). Therefore, considering the overall circumstances of the present case, we deem it proper to set aside the order passed by Ld. CIT(A) and restore the matter back to the file of Ld. CIT(A) for deciding the same afresh by providing adequate opportunity of hearing, subject to cost of Rs. 5,000/- imposed upon the assessee which shall be deposited in the **Prime Minister Relief Fund** and a copy of the receipt shall be placed on the file before Ld. CIT(A) 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.

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

6. Needless to mention that Ld. CIT(A) shall provide adequate opportunity of hearing to the assessee. The assessee shall not

seek any adjournment on frivolous grounds and shall remain cooperative during the course of proceedings.

7. In the result, the appeal filed by the assessee stands ***allowed for statistical purposes.***

Order pronounced in the open court on 01.04.2026

SD/-

**(JAGADISH)
ACCOUNTANT MEMBER**

SD/-

**(SANDEEP GOSAIN)
JUDICIAL MEMBER**

Mumbai, Dated 01/04/2026

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