

IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCHES "SMC", MUMBAI

Before Shri Rahul Chaudhary (JM) & Shri Bijayananda Pruseth (AM)

ITA No. 9242/Mum/2025 (A.Y. 2007-08)

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| Shri Narayan Namdeo Kadam<br>904 Landmark Complex<br>Luiswadi, Thane West<br>Maharashtra-400 604.<br>PAN : ACDPK6328A<br>(Appellant) | Vs. | ITO Ward 3(1)<br>Ashar IT Park, Road No. 16,<br>Wagle Estate, Thane West,<br>Maharashtra-400604.<br>(Respondent) |
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| Assessee by           | Shri Nilesh Kariya |
| Respondent by         | Ms. Deepika Arora  |
| Date of Hearing       | 05.03.2026         |
| Date of Pronouncement | 24.04.2026         |

ORDER

Per Bijayananda Pruseth (AM) :

This appeal 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 Additional/JCIT (Appeals)-10, Delhi dated 31.10.2025 for A.Y. 2017-18.

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

On facts and circumstance of the case and in law,

1. The Learned National Faceless Appeal Centre (Ld. NaFAC) has erred in dismissing the appeal on the technical ground that the Revised Computation of Total Income of the Appellant does not survive without valid revised return thereby deciding the appeal in an arbitrary manner and without application of mind.
2. The Ld. NFAC has erred in dismissing the appeal without deleting the business income which was already assessed as Salary income while computing total income u/s 143(1) of the Income Tax Act, 1961 (the "Act')
3. That the Ld. NaFAC has failed to adjudicate any of the grounds of appeal and has not addressed the issues on their merits.
4. That the Ld. NFAC has erred in passing the order without issuing notice u/s 129 of the Act thereby violating the principle of natural justice as mandated under the provisions of the Income Tax law.
5. That the Ld. Centralised Processing Unit (CPC) erred in making the adjustments in Intimation u/s 143(1) of the Act without providing the opportunity of being

hear thereby violating the principles of natural justice as mandate under the provisions of Income Tax law.

6. The Appellant prays to allow it to add, alter, amend, modify and/or delete any or all of the above grounds of appeal.

3. The facts of the case, in brief, are that the assessee filed return of income for A.Y. 2017-18 on 19.7.2017 declaring total income of Rs. 23,32,600/-. The return was processed under section 143(1) on 15.9.2018 determining total income at Rs. 41,00,240/- by making adjustment of Rs. 17,67,640/-. Aggrieved, the assessee filed appeal before the CIT(A), which was delayed by more than three years. The CIT(A) condoned the delay and admitted the appeal. On merit, the assessee contended that there was double taxation of the same amount of Rs. 17,67,642/- by not reducing the business income from the salary income. It was submitted that a revised return could not be filed because the time available had expired. Hence, a revised computation of income was filed before CIT(A). The CIT(A) did not accept the claim of the assessee by observing that filing of a revised computation of total income during appellate proceedings without the backing of a validly filed revised return cannot be entertained. He observed that the error originated from the assessee's own declared figures in the return of income filed by him. In absence of valid revised return, the claim was not liable to be entertained. Accordingly, the appeal was dismissed.

4. Aggrieved, the assessee filed appeal before the Tribunal. The Ld. AR of the assessee has filed a paper book enclosing various details, which were filed before the lower authorities. He has also relied on the following decisions : (i) ITO(Int. Tax) Vs. Armine Hamied Khan (2022) 142 taxman.com 14(Mum-Trib), (ii) CIT Vs. Pruthvi Brokers and Shareholders (2012) 23 taxman.com 23 (Bom), (iii) DCIT Vs. Bajaj Auto Ltd. (2025) 180 taxman.com 45(Mum-Tri) & (iv) CIT Vs. Sam Global Securities Ltd. (2013) 38 taxman.com 129 (Del).

5. On the other hands, Ld. DR for the Revenue relied on the orders of the lower authorities.

6. We have heard both sides and perused material on record. We have also deliberated on the decisions relied upon by the Ld. AR. The assessee had separately shown income from salary of Rs. 12,41,801/- and income from business of Rs.

12,59,311/- in the original return of income (page 64 of paper book). However, in the revised computation he had shown salary income of Rs. 30,09,440/- and business income of Rs. Nil. The total tax payable on the total income as per the original return was Rs. 5,40,523/-, whereas the tax payable was Rs. 6,81,172/- in the revised computation of income. The CIT(A) did not accept the claim on the ground that the remedy available to the assessee was by way of a revised return and not by filing a revised computation of income. It is true that the Hon'ble Supreme Court in case of Goetze (India) Ltd. Vs. CIT, 284 ITR 323, held that the AO has no power to entertain a new claim made after the return has been filed, otherwise that by way of a revised return. However, the restriction is not applicable to the Tribunal to entertain a new claim. It may be stated that the decision of the Hon'ble Supreme Court in the case of NTPC Ltd. Vs. CIT, 229 ITR 383 (SC) was referred to by the Counsel during the hearing before the Hon'ble Supreme Court in case of Goetze (supra). The Hon'ble Jurisdictional High Court in the case of Pruthvi Brokers and Shareholders (supra) has also held that the assessee is entitled to raise before the appellate authority additional grounds in terms of additional claims not made in the original return filed by it. In view of the decisions cited supra, the claim of the assessee is liable to be admitted. However, the claim requires verification by the AO because the details are available with him. Accordingly, the order of CIT(A) is set aside and the matter is restored to the file of the AO for verification and passing fresh order as per law after granting proper opportunity of being heard to the assessee. The ground is allowed for statistical purposes.

7. In the result, appeal is allowed for statistical purposes.

Order pronounced in the open court on 24.04.2026.

Sd/-  
(RAHUL CHAUDHARY)  
Judicial Member

Sd/-  
(BIJAYANANDA PRUSHETH)  
Accountant Member

Mumbai : Dated : 24.04.2026  
PS

Copy of the order forwarded to :

1. The appellant
2. The respondent
3. CIT-concerned
4. DR, ITAT, Mumbai



5. Guard file

By order

(Dy/Asstt. Registrar)  
ITAT, Mumbai.