

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“B” BENCH : BANGALORE**

BEFORE SHRI PRASHANT MAHARISHI, VICE PRESIDENT  
AND  
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER

ITA No.1785/Bang/2025
Assessment year : 2018-19

Tirupathi Enterprises, 126/18, 1 <sup>st</sup> Floor, 8 <sup>th</sup> Cross, 4 <sup>th</sup> Main, Wilson Garden, Bangalore – 560 027. <b>PAN: AADFT 9556H</b>	Vs.	The Income Tax Officer, Ward 7(2)(3), Bangalore.
APPELLANT		RESPONDENT

Appellant by	:	Ms. Sahana T.H.M., Advocate
Respondent by	:	Shri Subramanian, Jt.CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	08.01.2026
Date of Pronouncement	:	17.02.2026

**ORDER**

*Per Prashant Maharishi, Vice President*

1. This appeal is filed by M/s Tirupathi Enterprises (the assessee/appellant) against the appellate order passed by the National Faceless Appeal Centre, Delhi (NFAC) [Id. CIT-A] for assessment year 2018 – 19 on 29th may 2024 wherein the appeal filed by the assessee

against the ex parte assessment order passed u/s. 144 r.w.s. 144B of the Income Tax Act 1961 (the Act) dated 22nd May 2021 passed by the National E-Assessment Centre, Delhi (ld.AO) was dismissed.

2. The assessee is in appeal before us raising several grounds however before us it is submitted that the learned assessing officer has passed an order ex parte, and similarly the appellate order is also passed ex parte and therefore the assessee must be granted an opportunity of hearing before the learned lower authorities. The assessee is also aggrieved with the fact that the learned CIT–A despite knowing that the assessment order is passed u/s. 144 of the Act did not restore the appeal back to the file of the ld.AO to make a fresh assessment order.
3. Brief facts of the case shows that the assessee is a partnership firm engaged in the business of running and maintaining office workspaces with all amenities like interior, furniture office equipment's etc. For the year under appeal the assessee has furnished its return of income on 30th August 2018 declaring total income of ₹ 912,110. The above return of income was picked up for complete scrutiny for the reason of the offering of the income as income from house property. Notices were issued to the assessee however the assessee remained non-compliant before the AO. The ld.AO noted that assessee has received gross receipt of Rs.1,14,01,374 which is subject to TDS u/s. 194(b) of the Act. Assessee has offered return of income by applying 8% of the total receipt as income of the assessee under the presumptive taxation. According to the ld.AO, the provisions of presumptive taxation u/s.

44AD does not apply to the assessee as the income of the assessee is chargeable to tax under the head income from house property. Accordingly he computed the gross receipt of ₹ 11,401,374, granted standard deduction u/s. 24 of the Act of ₹ 3,420,420 and determined the income from house property of ₹ 7,980,862. The assessment order was passed u/s. 144 r.w.s. 144B of the Act on 22nd may 2021.

4. The assessee aggrieved with the same preferred an appeal before the learned CIT–A, assessee was issued three notices by the learned CIT–A, however on first occasion the assessee did not respond and subsequently on two occasions the assessee sought an adjournment. The learned CIT–A dismissed the appeal of the assessee for non-prosecution as well as upholding the findings of the ld.AO.
5. The assessee is aggrieved with the appellate order and preferred an appeal before us.
6. The learned AR, Ms. Sahana T.H.M., advocate submitted that assessee is unaware of notices issued by the ld.AO as well as the learned CIT–A solely on account of the fact that hearing notices were erroneously sent to an email ID vishwanathstaff@gmail.com which belongs to the assessee's auditor who was given charge of looking into the tax compliance of the assessee. This email ID did not belong to the assessee. Therefore it was submitted that assessee was completely unaware of the assessment proceedings as well as the appellate proceedings. It was further stated that email address given for primary communication of the above email ID was also auto populated at the

time of filing form No. 35 and therefore the notices issued by the learned CIT-A also did not reach to the assessee. It was further stated that the learned CIT-A has also issued the first notice on 24 May 2022 and subsequently within a span of seven days the notices were issued and the appeal of the assessee was dismissed. It was therefore submitted that the assessee did not get proper opportunity of hearing. It was further stated that in the statement of facts before the learned CIT-A, the assessee has submitted the complete details, but which were not considered by the learned CIT-A and held that assessee is not interested in prosecuting the above appeal. The learned CIT-A has also merely confirmed the action of the Id.AO without giving his own opinion on the merits of the case.

7. The learned departmental representative vehemently supported the order of the learned lower authorities and submitted that when the assessee was given an opportunity of hearing on the email ID stated in Form No. 35 as well as available with the assessing officer, the assessee is duty-bound to look into that and respond to the notices issued. The assessee has not submitted any details before the learned assessing officer as well as before the learned CIT-A. Therefore there is no infirmity in the order of the learned lower authorities. It was further stated that the assessee is providing some facilities but dominantly providing house property on rent. Filing of ROI by assessee u/s 44Ad is devoid of merit. Therefore the income is required to be taxed under the head income from house property only. Therefore there is no merit in the appeal of the assessee.

8. We have carefully considered the rival contention and perused the orders of the learned lower authorities. We find that the learned CIT–A has issued first notice in 2022. The second notice was issued on 2 May 2024 where the assessee sought an adjournment, the second notice was issued on 9 May 2024 wherein also the assessee sought an adjournment and subsequently the appellants order was passed on 24 May 2024. In this case before the assessing officer also the assessee did not remain present. Therefore the order u/s. 144 r.w.s. 144B of the Act was passed by the Id.AO on 22 May 2021. It is the claim of the assessee that email ID mentioned is with respect to the auditor of the company who was assigned the income tax work. The notices were issued by the learned authorities on that email ID but same are not communicated to the assessee and the assessee was not aware about these notices. This has resulted into an ex parte assessment because assessee did not get any opportunity to represent his case before the learned lower authorities. The learned CIT–A despite noticing the fact that the case of the assessee has been disposed of by the learned AO because of non-appearance by the assessee before him, held that assessee is not interested in prosecuting the appeal filed before him. In fact it should have also enquired that the assessee has not appeared before the learned assessing officer and is also not appearing before him, whether the notices are rightly reaching to him or not. Even otherwise, according to the provisions of section 251 of the Act it should have restored the issue back to the file of the learned AO for passing an assessment order

on the merits of the case as he has also passed an assessment order u/s. 144 of the Act.

9. We also hold that provisions of section 44AD of the act does not apply to the assessee.
10. In view of the above facts, we restore the whole appeal back to the file of the learned assessing officer with a direction to the assessee to submit the necessary details within 90 days from the date of receipt of this order. The learned assessing officer may examine the same, carry out due inquiries, and after giving an opportunity of hearing to the assessee, pass an order on the merit.
11. In the result appeal filed by the assessee is allowed for statistical purposes.

Pronounced in the open court on this 17<sup>th</sup> day of February, 2026.

Sd/-

Sd/-

( SUNDARARAJAN K. )  
JUDICIAL MEMBER

( PRASHANT MAHARISHI )  
VICE PRESIDENT

Bangalore,

Dated, the 17<sup>th</sup> February, 2026.

*/Desai S Murthy /*

Copy to:

1. Appellant
2. Respondent
3. Pr. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar  
ITAT, Bangalore.