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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

***Date of decision: 28th October, 2026***

\# **CNR No. DLHC010505722026**

\+ W.P.(C) 15512/2026 CM APPL. 72799/2026 CM APPL. 72800/2026

MEHAK ASRI .....Petitioner

Through: Mr. Varun Nagrath, Mr. Santosh Kumar Singh & Mr. Shubham Singh, Advs.

versus

UNION OF INDIA AND ORS .....Respondents

Through: Mr. Gibran Naushad, SSC with Mr. Suraj Shekhar Singh, Mr. Anish Mishra & Mr. Hasan Haider, Advs. for R2.
Ms. Vishali Nariyala, GP for UOI.

**CORAM:**
**HON'BLE MR. JUSTICE DINESH MEHTA**
**HON'BLE DR. JUSTICE ADITI CHOUDHARY**

**J U D G M E N T**

**DINESH MEHTA, J.*(ORAL)***

1. By way of the present writ petition, the petitioner has challenged the order dated 25.06.2026 passed by the Commissioner of Income Tax (Appeals) (*CIT(A)*) under Section 250 of the Income Tax Act, 1961 (*hereinafter referred to as 'the Act of 1961'*), whereby petitioner's appeal was decided ex-parte.

2. Briefly narrating the facts, learned counsel for the petitioner submitted that the petitioner had preferred an appeal against the assessment order dated 31.12.2019 passed under Section 143(3) of the Act of 1961. While informing that the appeal was instituted on 24.01.2020, learned counsel submitted that the petitioner had received a number of notices of hearing, out of which last

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notice was dated 23.06.2026, whereby the petitioner was asked to furnish written submissions on or before 30.06.2026 (Annexure P7). He submitted that before the petitioner could furnish the written submissions or even said date (30.06.2026) cold arrive, the impugned order came to be passed on 25.06.2026 and petitioner's appeal was rejected in absentia.

3. Learned counsel submitted that the impugned order passed by CIT(A) is contrary to the settled procedure and the principles of nature justice inasmuch as the appeal was decided prior to the date fixed of hearing or the date by which the appellant was supposed to file written submissions.

4. Learned counsel further submitted that had the Appellate Authority given due opportunity to the petitioner, he would have convinced him on merits of his case and also placed before the Appellate Authority copy of the order of the Income Tax Appellate Tribunal (*hereinafter referred as 'the Tribunal'*) passed in similar circumstances, whereby, appeal of the similarly situated assessee had been allowed.

5. Learned counsel for the respondents on the other hand argued that the petitioner has wrongly invoked writ jurisdiction of this Court against an order passed by the CIT(A), by passing the remedy of appeal before the Tribunal provided under the Act of 1961.

6. In other words his contention was that the petitioner is required to file an appeal before the Tribunal against the order dated 25.06.2026.

7. Heard learned counsel for the parties.

8. While observing that in normal circumstances the preliminary objection raised by learned counsel for the respondents would have sustained, as it is correct that an assessee cannot normally approach this Court against an order passed by CIT(A); and he should first avail the remedy of appeal before

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the Tribunal. However, having regard to the peculiar facts of the present case, wherein the CIT(A) has committed a procedural error apparent on the face of record, we are inclined to entertain the present writ petition, as the petitioner is only seeking a right of audience before the CIT(A), who has not provided an opportunity of hearing to him.

9. On perusal of the notice dated 23.06.2026 (Annexure P7), it is apparent that the appellate authority had issued a notice to the petitioner requiring him to file written submissions by 30.06.2026. However, before such date could arrive, the impugned order came to be passed by the CIT(A), without even waiting for the date so fixed let alone the written submissions. The impugned order, therefore, suffers from violation of principles of natural justice.

10. The impugned order dated 25.06.2026 is thus quashed and set aside and the appeal is restored to the dockets of CIT(A) to be decided afresh in accordance with law.

11. On placing a certified copy of the instant order, the CIT(A) shall fix a date of hearing and if requested by the petitioner a through Video Conferencing shall be provided to the petitioner and the appeal shall be decided in accordance with law.

12. Writ petition stands disposed of alongwith the pending applications.

**(DINESH MEHTA)**
**JUDGE**

**ADITI CHOUDHARY**
**(JUDGE)**

**OCTOBER 28, 2026**/*sid*

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