

आयकर अपीलीय अधिकरण “एक सदस्य मामला” न्यायपीठ नागपुर में ।
IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH, NAGPUR

(Through Virtual Court)

श्री एस.एस. विश्वनेत्र रवि, न्यायिक सदस्य के समक्ष ।
BEFORE SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

Sl. No.	ITA No.	Name of Appellant	Name of Respondent	Asst. Year
1	207/NAG/2022	Anurag Kewalram Rotkar, 1/20, New Subhedar Layout, Ayodhya Nagar, Nagpur-440024 PAN : ANTPR4993H	DCIT, Central Circle-2(1), Nagpur	2010-11
2	208/NAG/2022	Anurag Kewalram Rotkar, 1/20, New Subhedar Layout, Ayodhya Nagar, Nagpur-440024 PAN : ANTPR4993H	DCIT, Central Circle-2(1), Nagpur	2011-12
3	209/NAG/2022	Anurag Kewalram Rotkar, 1/20, New Subhedar Layout, Ayodhya Nagar, Nagpur-440024 PAN : ANTPR4993H	DCIT, Central Circle-2(1), Nagpur	2012-13
4	210/NAG/2022	Anurag Kewalram Rotkar, 1/20, New Subhedar Layout, Ayodhya Nagar, Nagpur-440024 PAN : ANTPR4993H	DCIT, Central Circle-2(1), Nagpur	2013-14
5	211/NAG/2022	Anurag Kewalram Rotkar, 1/20, New Subhedar Layout, Ayodhya Nagar, Nagpur-440024 PAN : ANTPR4993H	DCIT, Central Circle-2(1), Nagpur	2014-15
6	212/NAG/2022	Anurag Kewalram Rotkar, 1/20, New Subhedar Layout, Ayodhya Nagar, Nagpur-440024 PAN : ANTPR4993H	DCIT, Central Circle-2(1), Nagpur	2015-16
7	213/NAG/2022	Anurag Kewalram Rotkar, 1/20, New Subhedar	DCIT, Central Circle-2(1), Nagpur	2016-17

		Layout, Ayodhya Nagar, Nagpur-440024 PAN : ANTPR4993H		
8	220/NAG/2022	Kewalram Sahadev Rotkar, 1/20, New Subhedar Layout, Ayodhya Nagar, Nagpur-440024 PAN : ACFPR1142M	DCIT, Central Circle-2(1), Nagpur	2010-11
9	221/NAG/2022	Kewalram Sahadev Rotkar, 1/20, New Subhedar Layout, Ayodhya Nagar, Nagpur-440024 PAN : ACFPR1142M	DCIT, Central Circle-2(1), Nagpur	2011-12
10	222/NAG/2022	Kewalram Sahadev Rotkar, 1/20, New Subhedar Layout, Ayodhya Nagar, Nagpur-440024 PAN : ACFPR1142M	DCIT, Central Circle-2(1), Nagpur	2012-13
11	223/NAG/2022	Kewalram Sahadev Rotkar, 1/20, New Subhedar Layout, Ayodhya Nagar, Nagpur-440024 PAN : ACFPR1142M	DCIT, Central Circle-2(1), Nagpur	2013-14
12	224/NAG/2022	Kewalram Sahadev Rotkar, 1/20, New Subhedar Layout, Ayodhya Nagar, Nagpur-440024 PAN : ACFPR1142M	DCIT, Central Circle-2(1), Nagpur	2014-15
13	225/NAG/2022	Kewalram Sahadev Rotkar, 1/20, New Subhedar Layout, Ayodhya Nagar, Nagpur-440024 PAN : ACFPR1142M	DCIT, Central Circle-2(1), Nagpur	2015-16
14	226/NAG/2022	Kewalram Sahadev Rotkar, 1/20, New Subhedar Layout, Ayodhya Nagar, Nagpur-440024 PAN : ACFPR1142M	DCIT, Central Circle-2(1), Nagpur	2016-17

Assessee by : Shri K.P. Dewani
Revenue by : Shri Kailash G. Kanojiya

सुनवाई की तारीख / Date of Hearing : 20-10-2022
घोषणा की तारीख / Date of Pronouncement : 01-11-2022

आदेश / ORDER

PER S.S. VISWANETHRA RAVI, JM :

All these appeals filed by the assessee against the common order dated 31-05-2022 passed by the Commissioner of Income Tax (Appeals)-3, Nagpur [‘CIT(A)'] in respect of above mentioned assessment years.

2. Since, the issues raised in all the appeals are similar basing on the same identical facts. Therefore, with the consent of both the parties, I proceed to hear all the appeals together and to pass a consolidated order for the sake of convenience.

3. First, I shall take up appeal of assessee in ITA No. 207/NAG/2022 for A.Y. 2010-11.

4. The assessee raised as many as 12 effective grounds amongst which the only issue emanates for my consideration is as to whether the CIT(A) is justified in dismissing the grounds ex-parte of the assessee.

5. Heard both the parties and perused the material available on record. I note that as facts emanating from the impugned order are that there was a search and seizure action u/s. 132 of the Act conducted on 04-09-2015 in the assessee's premises, many incriminating documents stated to have been found which were seized during the said course of search and seizure

operation. In pursuance of the said search a notice u/s. 153A of the Act was issued and in response as it was alleged that the assessee did not furnish his return of income. Thereafter, by issuing notice u/s. 142(1) of the Act, the AO completed assessment u/s. 144 r.w.s. 153A of the Act. Having aggrieved by the addition made therein by the AO, the assessee preferred an appeal before the CIT(A). The CIT(A) issued nine notices to the assessee intimating the date of hearing and no appearance whatsoever put up by the assessee in person or through his authorized representative before the CIT(A) which is evident from tabulated chart reflecting in para 3 of the impugned order. The CIT(A) proceeded to confirm the order of AO ex-parte of assessee by placing reliance on the order of Delhi Benches of Tribunal in the case of CIT Vs. Multiplan India Pvt. Ltd. reported in 38 ITD 320. Undoubtedly, many opportunities were given to the assessee which is as evident from impugned order which is also not disputed by the ld. AR, but however, the CIT(A) dismissed the grounds of appeal ex-parte of the assessee without adjudicating the issues on merits. It is a settled principle that the duty cast upon the CIT(A) to decide the issues on merits by taking into the evidences available on record, but no such exercise has been done by the CIT(A). Now, the ld. AR, Shri K.P. Dewani submits that the assessee is ready to furnish all the details in support of his claims and prayed to afford an opportunity for the assessee to prosecute its grounds raised before the CIT(A) by substantiating the claims.

6. The ld. DR, Shri Kailash G. Kanojiya vehemently opposed the submissions of ld. AR and argued that the CIT(A) has given nine opportunities to the assessee by issuing notices intimating the date of hearing. The assessee did not comply the said notices and without having no option the CIT(A) confirmed the view of AO. The ld. DR drew my

attention to the assessment order and argued there was no appearance on behalf of the assessee even in the assessment proceedings also, which resulted an assessment u/s. 144 of the Act. Admittedly, as could be observed from the record there was no opportunity for the assessee in the First Appellate proceedings and the CIT(A) without adjudicating the issues on merits simply dismissed the grounds for non-prosecution of assessee. Therefore, taking into consideration the submissions of ld. AR and ld. DR and interest of the justice, I deem it proper to remand the matter to the file of CIT(A) for its fresh adjudication. The assessee is liberty to file evidences, if any in support of his claims. Thus, the grounds raised by the assessee are allowed for statistical purposes.

7. In ground No. 13 the assessee has assailed charging of interest u/s. 234A, 234B and 234C of the Act. The charging of interest u/s. 234A, 234B and 234C is mandatory and consequential. Accordingly, ground No. 13 is dismissed.

8. In the result, the appeal of assessee is allowed for statistical purpose.

ITA Nos. 208 to 213 & 220 to 226/NAG/2022

9. I find that the issue raised in the appeals and the facts in ITA Nos. 208 to 213 & 220 to 226/NAG/2022 are identical to ITA No. 207/NAG/2022 except the variance in amount and period. The ld. AR and ld. DR admits the same. Since, the facts in ITA Nos. 208 to 213 & 220 to 226/NAG/2022 are similar to ITA No. 207/NAG/2022, the findings given by me while deciding the grounds of appeal of assessee in ITA No. 207/NAG/2022 would *mutatis mutandis* apply to ITA Nos. 208 to 213 &

220 to 226/NAG/2022, as well. All the appeals of assessee are allowed for statistical purposes, accordingly.

10. In the result, all the appeals of assessee are allowed for statistical purposes.

Order pronounced in the open court on 01st November, 2022.

Sd/-
(S.S. Viswanethra Ravi)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 01st November, 2022.
रवि

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-3, Nagpur
4. The Pr. CIT (Central), Nagpur
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "एक सदस्य मामला" बेंच, नागपुर / DR, ITAT, "SMC" Bench, Nagpur.
6. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune