

**आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणेमें।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**PUNE BENCHES "B" :: PUNE**

**BEFORE SHRI S.S.GODARA, JUDICIAL MEMBER**  
**AND**  
**DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER**

**आयकर अपील सं. / ITA No.414& 415/PUN/2023**  
**निर्धारण वर्ष / Assessment Year : 2010-11& 2011-12**

Rayat Sahakari Sakhar Karkhana Ltd., A/p. Shewalewadi, Mhaso, Tal. Karad, Dist. Satara – 415111.  PAN: AABAR 0241 C	Vs	The Tax Recovery Officer, Satara.
Appellant/ Assessee		Respondent /Revenue

Assessee by	Shri Hanmant Dhalve – AR
Revenue by	Shri M.G.Jasnani – DR
Date of hearing	16/05/2023
Date of pronouncement	13/06/2023

**आदेश/ ORDER**

**PER DR. DIPAK P. RIPOTE, AM:**

These two appeals filed by the assessee are directed against the separate orders of ld.Commissioner of Income of Tax(Appeals)[NFAC] dated 28.02.2023 for A.Y.2010-11 and 21.03.2023 for A.Y.2011-12 emanating from Assessing Officer's separate orders under section 143(3) of the Act. The Assessee in ITA No.414/PUN/2023 has raised the following grounds of appeal as under :

*"1. On the fact and in the circumstance of the case and in law of the learned NFAC-Commissioner of Income Tax (Appeals) Delhi,*

*has grievously erred in deciding the appeal dismissed, without providing sufficient opportunity to appellate.*

2. *On the fact and in the circumstance of the case and in law of the learned NFAC-Commissioner of Income Tax (Appeals) Delhi, has erred in disallowing and adding back on account of Usercharges (Business Income of karkahan) received Treat as a Income from other Sources*

3. *On the fact and in the circumstance of the case and in law of the learned NFAC-Commissioner of Income Tax (Appeals) Delhi, has erred in disallowing and adding back an amount of Rs.86.92.814/- on account of Interest disallowed u/s. 43B*

4. *The appellant craves for the leave, add, alter, amend, modify and delete any or all the above grounds of appeals before or at the time of hearing.”*

**Submission of ld.AR :**

2. The ld.AR pleaded that ld.CIT(A) had passed ex-parte order. The ld.AR pleaded that assessee could not file details before the ld.CIT(A) due to non-availability of staff and due to COVID-19 Pandemic. The ld.AR pleaded that one more opportunity may kindly be given to file the necessary details before the ld.CIT(A).

3. The ld.DR relied on the order of lower authorities.

**Findings and Analysis :**

4. It is observed that assessee had failed to file submission before ld.CIT(A). The ld.CIT(A) has passed an ex-parte order. We are convinced that assessee could not file relevant details due to valid reason. In the interest of justice, we deem it fit to set-aside the order to ld.CIT(A) for denovo adjudication. The ld.CIT(A) shall provide

opportunity of hearing to the assessee. The assessee shall file all the necessary details before the Id.CIT(A). Accordingly, grounds of appeal are allowed for statistical purpose.

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

**ITA No.415/PUN/2023 :**

6. Since we have already decided the appeal of the Assessee above, and we note that similar facts are involved in this appeal of the assessee, therefore, our decision in ITA No.415/PUN/2023 shall apply *mutatis-mutandis* to this appeal also. Accordingly, grounds of appeal are allowed for statistical purpose.

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

Order pronounced in the open Court on 13<sup>th</sup> June, 2023.

Sd/-  
(S.S.GODARA)  
JUDICIAL MEMBER

Sd/-  
(DR. DIPAK P. RIPOTE)  
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 13<sup>th</sup> June, 2023/ SGR\*

**आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.

5. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच,  
पुणे / DR, ITAT, "B" Bench, Pune.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

Senior Private Secretary  
आयकर अपीलीय अधिकरण, पुणे/ITAT, Pune.