



॥ आयकर अपीलीय न्यायाधिकरण, पणजी न्यायपीठ, पणजी में ॥



**IN THE INCOME TAX APPELLATE TRIBUNAL, PANJI BENCH, PANJI
BEFORE HON'BLE SHRI S. S. GODARA, JUDICIAL MEMBER
AND**

SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No. 21/PAN/2019

निर्धारण वर्ष / Assessment Year : 2015-16

Shri Riyazulhaq F Pathan,
Near Central Excise Quarter,
Nipani Tq. Chikodi,
Belagavi -591237
PAN:AHDPP8150A

..... अपीलार्थी / Appellant

बनाम / V/s.

Income Tax Officer, Ward-1,
Nipani

..... प्रत्यर्थी / Respondent

द्वारा / Appearances

Assessee by : None

Revenue by : Shri N. Shrikanth

सुनवाई की तारीख / Date of conclusive Hearing : 10/07/2023

घोषणा की तारीख / Date of Pronouncement : 12/07/2023

आदेश / ORDER

PER G. D. PADMAHSHALI, AM;

The appeal is directed against the order of the Commissioner of Income Tax (Appeals), Belagavi ['CIT(A)' in short] dt. 30/10/2018 passed u/s 250 of the Income-tax Act, 1961 ['the Act' in short] which in turn ascended out of the assessment order dt. 28/12/2017 passed u/s 143(3) of the Act by the Income Tax Officer, Ward-1, Nipani ['AO' in short].



2. In the absence of any representation and adjournment application from the appellant assessee, with the able assistance of learned departmental representative Mr N Shrikanth ['DR' in short] we deem fit to proceed to hear the matter *ex-parte* on merits u/r 24 of Income Tax Appellate Rules, 1963 ['ITAT-Rules' in short].

3. After hearing to Ld. DR, perused the case record. Here in the extant case we observed that, consequent to survey action u/s 133A of the Act dt. 04/03/2015 the assessee e-filed his return of income on 13/10/2016 declaring taxable income of ₹75,56,460/- including therein the excess cash & excess stock found in an action u/s 133A of the Act. Subjecting the case to scrutiny, the Ld. AO framed an assessment u/s 143(3) of the Act by bringing to tax an excess cash of ₹6,70,475/- u/s 69A r.w.s. 155BBE and excess stock of ₹68,35,590/- u/s 69 r.w.s. 115BBE of the Act.

4. Challenging the application of provisions of section 115BBE the assessee carried the matter before first appellate authority, which Ld. CIT(A) dismissed without a well-reasoned speaking order.



5. It shall be purposive to state that, section 250(6) of the Act, mandates the first appellate authority to dispose of the appeal of the assessee in writing by stating (i) points for determination, (ii) decision thereon and (iii) the reason for the decision. That is to say, an order passed without dealing each issue under challenge separately in aforesaid manner renders the adjudication *non-est*.

6. In the present case, the impugned order of the Ld. CIT(A) is conspicuous by absence of any discussion with regard to the Ground of Appeal raised before him, point of determination, the decision thereon and reason for such decision. Even in the absence of the explanation vis-à-vis submission, the Ld. CIT(A) ought to have disposed of the appeal of the assessee in the manner required in Section 250(6) of the Act, which in the present case has not been complied with. We find that, in a similar situation the Co-ordinate Pune bench in '*Uttamkumar C. Wagh Vs DCIT*' (ITA No. 150/PN/2012) and further in '*Ambadas Vishwanath Mete Vs JCIT*' (ITA No. 555/PN/2013) has set-aside the order of first appellate authority and remanded the matter back for adjudication and passing speaking order in terms of section 250(6) of the Act.



7. We therefore, following the judicial discipline we set-aside the impugned order, which is non-speaking on the merits of the dispute, and restore the matter back to the file of the Ld. CIT(A) for de-nova adjudication by a speaking order in terms of section 250(6) of the Act and other applicable provisions of law after allowing the assessee a reasonable opportunity of being heard.

2. In result, the appeal is ALLOWED FOR STATISTICAL PURPOSE in above terms.

In terms of rule 34 of ITAT Rules, the order pronounced in the open court on this Wednesday 12th day of July, 2023.

-S/d-

S. S. GODARA
JUDICIAL MEMBER

पुणे / PUNE ; दिनांक / Dated : 12th day of July, 2023.

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

1. अपीलार्थी / The Appellant.
3. The CIT-(A), Belagavi
5. DR, ITAT, Panaji Bench, Panaji
Ashwini

-S/d-

G. D. PADMAHSHALI
ACCOUNTANT MEMBER

2. प्रत्यर्थी / The Respondent.
 4. The Pr. CIT, Belagavi
 6. गार्डफ़ाइल / Guard File.
- आदेशानुसार / By Order,
वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय न्यायाधिकरण, पुणे / ITAT, Pune.