



॥ आयकर अपीलीय न्यायाधिकरण, पणजी न्यायपीठ, पणजीमें ॥



**IN THE INCOME TAX APPELLATE TRIBUNAL, PANAJI BENCH, PANAJI
BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER**

AND

SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER

(Through Virtual Hearing from Pune)

आयकर अपील सं. / ITA No. 105/PAN/2022

निर्धारण वर्ष / Assessment Year : 2018-19

Shri Mahatma Basaveshwar Credit

Souhard Sahakari Niyamit

Chikod Rd., Nipani,

Belagavi-591237.

PAN: AAAAS2281C

..... अपीलार्थी / *Appellant*

बनाम / Vs

Dy. Commissioner of Income Tax

CPC, Bengaluru (Karnataka)

..... प्रत्यर्थी / *Respondent*

द्वारा / Represented

Assessee by : Mr Veeranna Murgod ['Ld. AR']

Revenue by : Mr N. Shrikanth ['Ld. DR']

सुनवाई की तारीख / Date of conclusive Hearing : 14/08/2023

घोषणा की तारीख / Date of Pronouncement : 01/09/2023

आदेश/ ORDER

PER G. D. PADMAHSHALI, AM;

By present appeal the assessee challenges order of National Faceless Appeal Centre [in short 'NFAC'] vide DIN & Order No. ITBA/NFAC/S/250/2022-23/1045262282(1) dt. 07/09/2022 passed u/s 250 of Income Tax Act, 1961 [in short 'the Act'] which in turn ascended out of an intimation passed u/s 143(1) of the Act by Dy. Commissioner of Income Tax CPC, Bengaluru [in short 'AO'] for assessment year 2018-19 [in short 'AY'].

2. Concisely stated facts of the case are;



2.1 The assessee a credit co-operative society filed its Return of Income declaring total income @ ₹NIL after claiming a set-off of losses for sum of ₹8,29,38,893/-. The return was summarily processed u/s 143(1) of the Act determining taxable income at ₹24,83,080/- owing to restricting the set-off of losses to ₹8,04,55,819/-.

2.2 Aggrieved assessee filed an appeal to Ld. NFAC u/s 246A(1)(a) of the Act. During first appellate proceedings, the Ld. NFAC provided as much as seven opportunities, however of these six remained unresponded, whereas written submissions made on 30/08/2022 remained uninspired to Ld FAA. In absence of effective response and absence of cogent evidence brought on record, Ld. NFAC dismissed the appeal *ex-parte* reiterating the contents from order of intimation and demographical details submitted by the assessee.

2.3 Aggrieved by the aforestated *ex-parte* impugned adjudication, the appellant assessee set-up this case alleging the violation of principle of natural justice in the former to merits thereof.

3. We have heard rival contentions, perused the material placed on record in light of rule 18 of ITAT-Rules 1963 and note that, proceedings before the Ld. NFAC commenced prior to nationwide lockdown and partly discontinued during pandemic period. The proceedings were reassumed by issue of first notice dt. 04/08/2021 calling upon the assessee to comply within a less than further 15 days. On assessee's failure to respond, the Ld. NFAC further issued



of as much as six notices upto 21/03/022 affording less than 10 days to comply on each occasion, which however for the reason remained unattended by the appellant. The latest notice was served post pandemic on 30/08/2022 which indeed found responded by written submission; however same remained out from inspiring any confidence to the Ld. NFAC.

4. We note that, in the absence of cogent evidential material and in the evince of restriction placed by 251(1)(a) of the Act Ld. NFAC culminated the proceedings re-quoting submission of the assessee. This adjudication, however in our considered view is not in consonance with the provision of sub-section (6) of section 250 of the Act, which mandates the appellate authority to state the points for determination, the decision thereon and the reason for the decision. For the reason, we deem it fit to remand the matter back to the file of Ld. NFAC with a direction to deal therewith *de-nova* after according not more than three opportunities and pass a speaking order in terms of section 250(6) of the Act.

5. In result, the appeal is ALLOWED FOR STATISTICAL PURPOSE.

U/r 34 of ITAT Rules, order is pronounced in open court on this Friday 01st day of September, 2023.

-S/d-

PARTHA SARATHI CHAUDHURY
JUDICIAL MEMBER

पुणे / PUNE ; दिनांक / Dated : 01st day of September, 2023.

आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :

1.अपीलार्थी / The Appellant.
4. The Pr.CIT, Panaji

2. प्रत्यर्थी / The Respondent.
5. DR, ITAT, Bench, Panaji

-S/d-

G. D. PADMAHSHALI
ACCOUNTANT MEMBER

3. The NFAC, Delhi
6.गार्डफ़ाइल / Guard File.

आदेशानुसार / By Order
वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय न्यायाधिकरण, पुणे / ITAT, Pune.