



॥ आयकर अपीलीय न्यायाधिकरण, पुणे “ए” न्यायपीठ, पुणे में ॥



IN THE INCOME TAX APPELLATE TRIBUNAL, PUNE ‘A’ BENCH, PUNE
BEFORE HON’BLE SHRI S. S. GODARA, JUDICIAL MEMBER
AND

SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No. 888/PUN/2023

निर्धारण वर्ष / Assessment Year : 2017-18

Hanumant Yashwant Pingale,
Kandhroll Tarfe Boreti, Khalapur,
Raigad - 410202,
PAN: APCPP7457H

..... अपीलार्थी / Appellant

बनाम / V/s

Income Tax Officer,
Ward-(4), Panvel

..... प्रत्यर्थी / Respondent

द्वारा / Appearances

Assessee by : Mr Hari Krishan [‘Ld. AR’]

Revenue by : Mr Ramnath Murkude [‘Ld. DR’]

सुनवाई की तारीख / Date of conclusive Hearing : 27/09/2023

घोषणा की तारीख / Date of Pronouncement : 27/09/2023

आदेश/ ORDER

PER G. D. PADMAHSHALI, AM;

By the present appeal assessee has challenged the DIN & order No. ITBA/NFAC/S/250/2023-24/1053178154(1) dt. 25/05/2023 passed u/s 250 of Income Tax Act, 1961 [in short ‘the Act’] by National Faceless Appeal Centre [in short ‘NFAC’] which in turn ascended out of an order of assessment passed u/s 144 of the Act by Income Tax Officer, Ward-(4), Panvel [in short ‘AO’] for assessment year 2017-18 [in short ‘AY’].



2. Briefly stated facts of the case are that;

2.1 The appellant individual assessee failed to file his return of Income for the year under consideration, in whose case information of cash deposit through AIR was received, pursuant to which the case of the assessee was picked for assessment by issue of notice dt. 10/03/2018 u/s 142(1) of the Act.

When various notices issued during the assessment proceedings remained un-responded and summon dt. 21/09/2019 issued on the appellant remained un-attended; the Ld. AO proceeded *ex-parte* and obtained information from various bankers' u/s 133(6) of the Act. In the event of appellant's effective failure to represent and to adduce cogent evidences in support of cash deposits and other banking transactions etc., the Ld. AO culminated the assessment proceedings to the best of his judgement by making additions towards unexplained cash transactions of ₹86,98,795/- u/s 69A of the Act and ₹58,00,000/- towards STCG u/s 45 of the Act and determined the total income of the appellant at ₹1,44,98,800/- by an order framed u/s 144 of the Act.

2.2 Aggrieved assessee filed an appeal before Ld. NFAC u/s 246A(1)(a) of the Act. During first appellate proceedings, the Ld. NFAC provided as much as four opportunities vide notice dt. 16/03/2021, 07/02/2023, 21/04/2023 & 09/05/2023 however same remained unresponded. In absence any response forthcoming from the assessee, Ld. NFAC referring findings of Ld. AO, has culminated its proceedings *ex-parte* placing reliance on Hon'ble Apex Court's decision in '*CIT Vs B. N. Bhattacharjee* reported in [1997] 118 ITR 461 (SC).



2.3 Aggrieved by the aforestated *ex-parte* adjudication of Ld. FAA, 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, the Ld. NFAC in the absence of cogent evidential material and in the evince of restriction placed by 251(1)(a) of the Act, had to culminate the proceedings *ex-parte*. This adjudication culminated without touching the merits, however in our considered view is not in consonance with the provision of sub-section (6) of section 250 of the Act. For the reason, without commenting on merits of the case, 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.

4. In result, **the appeal is ALLOWED FOR STATISTICAL PURPOSE.**

u/r 34 of ITAT Rules, order pronounced in open court on this Wednesday, 27th day of September, 2023.

-S/d-

S. S. GODARA

JUDICIAL MEMBER

-S/d-

G. D. PADMAHSHALI

ACCOUNTANT MEMBER

पुणे/ PUNE; दिनांक / Dated : 27th day of September, 2023.

आदेश की प्रतिलिपिअग्रेषित / Copy of the Order forwarded to :

1.अपीलार्थी / The Appellant.

2. प्रत्यर्थी / The Respondent.

3. The Pr. CIT, Pune

4. The CIT(A), NFAC Delhi

5. DR, ITAT, Bench 'A', Pune

6.गार्डफाइल / Guard File.

आदेशानुसार / By Order

वरिष्ठनिजीसचिव / Sr. Private Secretary

आयकरअपीलीयन्यायाधिकरण, पुणे / ITAT, Pune.