

IN THE INCOME TAX APPELLATE TRIBUNAL, PUNE 'SMC' BENCH, PUNE

BEFORE HON'BLE PARTHA SARATHI CHOUDHURY, JUDICIAL MEMBER

AND

SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.1053/PUN/2023

निर्धारण वर्ष / Assessment Year : 2012-13

Suresh Narayan Dolas
1/281, Navjeevan Colony, Hiwarkheda Rd.,
Kannad, Tal.:Kannad,
Dist.:Ch. SambhajiNagar-431103
PAN : AZSPD9401D

..... अपीलार्थी / Appellant

बनाम / V/s.

Income Tax Officer
Ward-1(4), Aurangabad

..... प्रत्यर्थी / Respondent

द्वारा / Appearances

Assessee by : None for the assessee

Revenue by : Mr Gaurav Singh ['Ld. DR']

सुनवाई की तारीख / Date of conclusive Hearing : 23/02/2024

घोषणा की तारीख / Date of Pronouncement : 23/02/2024

आदेश / ORDER

Per G. D. Padmahshali, AM;

This appeal is filed u/s 253(1)(a) of the Income Tax Act ['the Act'] by the assessee challenging the order of National Faceless Appeal Centre, Delhi ['NFAC'] DIN & Order ITBA/NFAC/S/250/2023-24/1054958487(1) dt. 08/08/2023 passed u/s 250 of the Act.



2. Briefly stated facts anent to the case are that;

2.1 The assessee is an individual and a non-filer. Upon the information from ITD/ITBA system that a cash of ₹14.34 Lakhs was deposited into saving bank account maintained with State Bank of India, the Ld. AO after recording the reasons and obtaining approval from competent authority invoked his jurisdiction u/s 147 of the Act to assess the aforestated as escaped income. In the event all notices including show-cause-notice [‘SCN’] issued to the assessee remained un-responded, the Ld. AO framed an assessment to the best of his judgement u/s 144 r.w.s. 147 of the Act and brought to tax the entire amount cash deposited into his SB a/c by placing reliance on the decision of Hon’ble Delhi High Court in ‘*CIT Vs General Motors Finance Ltd.*’ reported in 254 ITR 449 (Del.)

2.2 When aforestated addition is assailed in an appeal before first appellate authority, the Ld. NFAC accorded as many as six opportunities of hearing vide notice dt. 28/01/2021, 15/06/2023, 22/06/2023, 12/07/2023, 19/07/2023 and 26/07/2023, however these remained futile. In absence of written submission and for non-prosecution of appeal, the Ld. NFAC in the light of Hon’ble Apex Court decision rendered in ‘*CIT Vs B. N. Bhattacharjee*’ reported in 10 CTR 354 (SC) was constrained to dismiss the appeal *ex-parte* reiterating the Ld. AO version of reasoning.

2.3 Aggrieved assessee brought up this appeal challenging the addition on solitary ground of merits as spelt out in the grounds raised in appeal memo.



3. In absence of the assessee, with able assistance from the Ld. DR we proceeded to adjudicate the matter *ex-parte* u/s 24 of the Income Tax Appellate Rules, 1963. [‘ITAT-Rules’] and perused the material placed on record in light of rule 18 of ITAT-Rules. The record *prima-facie* reveals us that, the assessee could neither attend nor could appoint proper consultant to represent his case before tax authorities below. Insofar as the merits of the case is concern, it claimed that the cash deposited into SB account are out of business of the assessee, however no cogent evidence were laid which could have been verified at both the stages. In this facts & circumstances, we see reasonable force in the prayer of parties seeking remand, therefore, without offering any comment on the merits of the case, we set-aside the impugned order and remand the issue to the file of Ld. NFAC with a direction to adjudicate the same *de-nova* after providing three effective opportunities to the appellant assessee.

4. Resultantly, the appeal is ALLOWED FOR STATISTICAL PURPOSE.

In terms of rule 34 of ITAT Rules, the order pronounced in the open court on this Friday 23rd day of February, 2024.

-S/d-

PARTHA SARATHI CHOUDHURY
JUDICIAL MEMBER

पुणे / PUNE ; दिनांक / Dated : 23rd day of February, 2024.

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

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|---------------------------------|---------------------------------|
| 1. अपीलार्थी / The Appellant. | 2. प्रत्यर्थी / The Respondent. |
| 4. The Concerned CIT (MH-India) | 5. DR, ITAT, Bench ‘SMC’, Pune |

-S/d-

G. D. PADMAHSHALI
ACCOUNTANT MEMBER

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| 3. The CIT(A)-NFAC, Delhi (India) |
| 6. गार्डफ़ाइल / Guard File. |

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