

IN THE INCOME TAX APPELLATE TRIBUNAL  
NAGPUR BENCH : NAGPUR

[THROUGH VIRTUAL HEARING AT PUNE]

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
AND  
SHRI DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER

I.T.A.No.105/NAG./2022  
Assessment Year 2017-2018

Shri Sanjay Gayaprasad Gupta, Nagpur. PAN ACLPG1228M C/o. Shri D.S. Jogani, Advocate, 640/A, Navinidhi, Tekdi Road, Sadar, Nagpur. Maharashtra	vs.	The CPC, Bengaluru – 560 500 Karnataka
(Appellant)		(Respondent)

For Assessee :	-None-
For Revenue :	Shri Abhay Y. Marathe, Sr. DR

Date of Hearing :	22.02.2024
Date of Pronouncement :	29.02.2024

**ORDER**

**PER SATBEER SINGH GODARA, J.M.**

This assessee's appeal for assessment year 2017-2018, arise against the National Faceless Appeal Centre [in short the "NFAC"] Delhi's Din and Order No. ITBA/NFAC/S/250/2021-22/1042323770(1), dated 31.03.2022, involving proceedings u/s.154 of the Income Tax Act, 1961 (in short "the Act").

Case called twice. None appears at assessee's behest. He is accordingly proceeded ex-parte.

2. The assessee pleads the following sole substantive ground in the instant appeal :

1. *“On facts and circumstances of case, as well as also in law, the Learned Commissioner of Income Tax (Appeals), NAFC, Delhi erred in confirming the disallowance of interest at Rs.83,122/- u/s 40(a)(ia) of the Income Tax Act, 1961 and also erred in confirming the rejection of the Application u/s 154 by the CPC, Bengaluru. The disallowance of interest at Rs.83,122/- u/s.40(a)(ia) of the Income Tax Act, 1961 and adding back the same to the total income of the appellant is unjustified, unwarranted, bad-in-law and against natural justice.*
2. *The assessee has not been given a reasonable opportunity of being heard. The order passed u/s 154 is illegal, invalid and against natural justice.*
3. *Any other ground shall be prayed at the time of hearing.”*

3. Learned DR invited our attention to the NFAC's detailed discussion affirming Assessing Officer's action rejecting the assessee's sec.154 rectification petition as under :

**6. Decision :**

The submission of the Appellant, facts on record are carefully perused.

**Ground No. 1** pertains to proceedings u/s. 143(1) where disallowances made u/s. 40(a)(ia) of the Act is agitated.

On careful perusal of the facts, it is held that the adjustment to the Returned Income is made on the basis of information provided by the Appellant, while filing its Return of Income. In the instant case, the adjustment was made as per the Appellant's form 3CB/3CD filed along with the Return of Income. In such a situation, no infirmity is observed in making adjustments u/s. 143(1) of the Act. This ground of appeal is dismissed.

The 2<sup>nd</sup> & 3<sup>rd</sup> ground of appeal is regarding the addition/adjustment u/s. 40(a)(ia) of the I.T. Act of Rs. 83,122/- on account of non-deduction of TDS and thereafter rejecting the Appellant's petition u/s. 154 of the Act.

In this regard, the Appellant has submitted, vide submission dt. 27.03.2022, that, "The Appellant has obtained Form No. 15G. Hence, Appellant has not deducted the Tax at source from interest payments.

The Appellant was specifically requested to furnish a copy of such Form No. 15G, vide this office communication dated 21.03.2022.

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A.Y. 2017-18  
ITBA/NFAC/S/250/2021-22/1042323770(1)

In response, the Appellant filed its submission, dated 28.03.2022 reiterating its earlier stand and also relied on the Report in Form 3CD and stated that "In form 3CD, the Auditor has nowhere mentioned about the disallowable amount u/s. 40(a)(ia) at Rs. 83,122/- on account of non compliance with the provisions of Chapter XVII-B of the Income Tax Act, 1961, (Page 4 & 8 of Annexure – Two Form No. 3CB & 3CD)."

However, the Appellant failed to furnish copy of Form 15G, which it claims to have obtained, even though being specifically asked for. Neither did the Appellant submit any evidence regarding furnishing the same to the A.O.

Further, as per clause. 21(B)(ii) of form 3CD, the Auditors have declared as follows:

As payment referred to in sub-clause (ia)								
1. Details of payment on which tax is not deducted:								
Date of payment	Amount of payment	Nature of payment	Name of payee	PAN of the payee, if available	Address Line 1	Address Line 2	City or Town or district	Pincode
31.03.2017	166478	Interest	Gayaprasad Gupta		Nagpur	Nagpur	Nagpur	440018
31.03.2017	54432	Interest	Pragyaa Gupta		Nagpur	Nagpur	Nagpur	440018
31.03.2017	56165	Interest	Sarika Gupta		Nagpur	Nagpur	Nagpur	440018

As per the TAR, the Auditors have certified that on a sum of Rs. 2,77,075/-

paid as interest, no tax has been deducted. Therefore, as per provision of Sec. 40(a)(ia), 30% thereof was required to be disallowed.

Considering the above factual matrix of the case, the Auditors finding as per Form 3CD and in terms of the provision contained u/s. 40(a)(ia) of the Act, I do not find any infirmity in the order appealed against, as there is no mistake apparent from records.

In the result, this ground of appeal is dismissed.

4. It emerges during the course of hearing that the assessee has now filed a paper book containing 28 pages, and more particularly, the corresponding Form-15G along with audit report and computation etc. Faced with the situation, we deem it appropriate to restore the assessee's instant sole substantive grievance back to the Assessing Officer for his afresh appropriate factual verification as per law, preferably within three effective opportunities of hearing. The same is subject to a rider that it shall be the assessee's onus only to plead and prove with all the relevant facts in consequential proceedings. Ordered accordingly.

5. This assessee's appeal is allowed in above terms.

Order pronounced in the open Court on 29.02.2024.

Sd/-  
[DR. DIPAK P. RIPOTE]  
ACCOUNTANT MEMBER

Sd/-  
[SATBEER SINGH GODARA]  
JUDICIAL MEMBER

Pune, Dated 29<sup>th</sup> February, 2024

VBP/-

Copy to

1.	The appellant.
2.	The respondent
3.	The NFAC, Delhi
4.	The Pr. CIT, Nagpur concerned
5.	D.R. ITAT, Nagpur Bench, Nagpur.
6.	Guard File.

//By Order//

//True Copy //

Assistant Registrar, ITAT, Pune Benches,  
Pune.