

**आयकर अपीलीय अधिकरण "ए" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, PUNE**

**BEFORE SHRI R.K. PANDA, VICE PRESIDENT
AND
SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER**

**आयकर अपील सं. / ITA No.502/PUN/2024
निर्धारण वर्ष / Assessment Year : 2018-19**

Suvidha Projects, 201, Divyashree Bunglow, Plot No. 11+12, Gourishankar Society, Damodar Nagar, Hingane Khurd, Pune – 411051 PAN : AAXFS6553K	Vs.	Ward – 3(3), Pune
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

Assessee by :	Shri Kishor B. Phadke
Department by :	Shri Ramnath P. Murkude
Date of hearing :	06-06-2024
Date of Pronouncement :	19-06-2024

आदेश / ORDER

PER S.S. GODARA, JM :

This assessee's appeal for assessment year 2018-19 arises against the National Faceless Appeal Centre (NFAC), Delhi's order dated 20.02.2024, passed in DIN & Order No. ITBA/NFAC/S/250/2023-24/1061173674(1), in proceedings u/s. 250 of the Income Tax Act, 1961; in short "the Act".

Heard both the parties at length. Case file perused.

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

"General ground

1. *The learned CIT(A), NFAC erred in law and on facts in confirming the addition of Rs.20,10,676/- made by the learned AO to the taxable income of the appellant.*

Ex-parte Order- Principal of Natural Justice

2. *The Appellant contends that appellant, unfortunately, failed to receive the communication from the ITBA portal and learnt about the opportunities of hearing /making submission before IT Authorities. Further, the appellant neither got email communication from office of learned CIT(A) as registered email id was inoperative due to the suspension of the domain name.*

*Grounds on Merits**Bad Debts:*

3. *The learned CIT(A), NFAC erred in law and on the facts in confirming learned AO's action of disallowing of deduction of Bad Debts u/s 36(1)(vii) of the ITA, 1961 amounting to Rs.17,34,111/-. The learned CIT(A) failed to appreciate that condition u/s 36(2) of the ITA, 1961 is fulfilled by the appellant.*
4. *Alternatively, the learned CIT(A) ought to have allowed amount of Rs.17,34,111/- as Business Loss u/s 28 or 37 of the ITA, 1961.*

Penalty on Service Tax

5. *The learned CIT(A), NFAC erred in law and on facts and confirming learned AO's action of disallowing service tax penalty amounting to Rs.2,18,564/- u/s 37 of the ITA, 1961. The learned AO ought to have appreciated that the same is compensatory and not penal in nature.*

Donation

6. *The learned CIT(A), NFAC erred in law and on facts and confirming learned AO's action in not allowing donation amounting to Rs.58,001/- u/s 37 of the ITA, 1961. The learned AO ought to have appreciated that donation paid to various organizations for smooth functioning of business of appellant is allowable expenditure.*
7. *Appellant craves leave to add/alter/modify/amend/delete all or any of the grounds of appeal."*

3. It emerges at the outset with the able assistance coming from both the parties that the learned CIT(A) has passed his lower appellate order ex-parte whilst confirming the Assessing Officer's action inter-alia making the disallowances/additions herein. Learned AR submitted that the assessee's non-appearance during lower appellate proceedings was only on account of communication gap vis-à-vis its auditor and arguing counsel's office. Faced with this situation and in the larger interest of justice as well as keeping in mind the fact that the impugned lower appellate discussion has not effectively complied with the rigor of section 250(6) of the Act requiring it to frame points of determination followed by a detailed discussion

thereupon, we deem it appropriate to restore the assessee's substantive grounds raised herein back to the CIT(A)/NFAC for afresh appropriate adjudication subject to a rider that it shall be assessee's risk and responsibility only to file and prove all the relevant facts within three effective opportunities in consequential proceedings.

4. This assessee's appeal is allowed for statistical purposes in above terms.

Order pronounced in the open court on 19th June, 2024.

Sd/-
(R.K. Panda)
VICE PRESIDENT

Sd/-
(Satbeer Singh Godara)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 19th June, 2024.
रवि

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच, पुणे / DR, ITAT, "A" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune