

**IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "A", PUNE**

**BEFORE SHRI R. K. PANDA, VICE PRESIDENT
AND
MS ASTHA CHANDRA, JUDICIAL MEMBER**

**ITA Nos.361 to 366/PUN/2024
Assessment Years : 2012-13 to 2017-18**

Mr. Mahadev Sahebrao Bangar 26A Moha, Tal. Jamkhed, Dist. Ahmednagar – 413201	Vs.	ITO, Ward-2, Ahmednagar
PAN: ABOPB6301N		
(Appellant)		(Respondent)

Assessee by : Shri Prasad S Bhandari &
Payal Sarada Rathi
Department by : Shri Pawan Bharati
Date of hearing : 19-06-2024
Date of pronouncement : 26-06-2024

ORDER

PER BENCH :

This batch of six appeals filed by the assessee are directed against the separate orders, dated 03.01.2024 of the CIT(A) / NFAC, Delhi relating to assessment years 2012-13 to 2017-18, respectively. For the sake of convenience, all these appeals were heard together and are being disposed off by this common order.

2. Although a number of grounds have been raised by the assessee, however, these all relate to the *ex-parte* orders of CIT(A) / NFAC in confirming the

additions made by the Assessing Officer (AO) as unexplained money u/s 69A of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for the various years, the details of which are as under:

A.Y. 2012-13	-	Rs.2,54,30,800/-
A.Y. 2013-14	-	Rs.1,18,32,000/-
A.Y. 2014-15	-	Rs.1,36,38,890/-
A.Y. 2015-16	-	Rs.48,42,160/-
A.Y. 2016-17	-	Rs.1,36,38,890/-
A.Y. 2017-18	-	Rs.48,42,160/-

3. First we take up ITA No.361/PUN/2024 for AY 2012-13 as the lead case. Facts in brief, are that the assessee is an individual and partner of M/s. Pooja Automobiles, a partnership firm and dealer of Mahindra & Mahindra. The assessee did not file his return of income for the year under consideration. The Assessing Officer reopened the assessment based on the information received that the assessee has made cash deposit of Rs.2,54,30,800/- in his bank account maintained with Renuka Mata Multi State Urban Co-op. Credit Society Ltd. Accordingly, a notice u/s 148 of the Act was issued and served on the assessee on 27.03.2019. Subsequently, the Assessing Officer (AO) issued statutory notice u/s 142(1) of the Act, in response to which, the assessee sought adjournment and finally despite number of opportunities granted, neither he appeared before the Assessing Officer nor complied to said notices. Therefore, the Assessing Officer finalized the

assessment u/s 144 of the Act and determined the total income of the assessee at Rs.2,54,30,800/- by making addition u/s 69A of the Act. Similarly, for other years also the Assessing Officer made the additions u/s 69A, the details of which are as under:

A.Y. 2013-14	-	Rs.1,18,32,000/-
A.Y. 2014-15	-	Rs.1,36,38,890/-
A.Y. 2015-16	-	Rs.48,42,160/-
A.Y. 2016-17	-	Rs.1,36,38,890/-
A.Y. 2017-18	-	Rs.48,42,160/-

4. The assessee filed certain details before the CIT(A) / NFAC and requested the CIT(A) / NFAC to admit the same as additional evidence under Rule 46A of the Income Tax Rules, 1963. However, the CIT(A) / NFAC rejected the contention of the assessee and dismissed the appeal by recording as under:

“Appellant is contending that that the non-compliance was on account of the misconduct of the earlier consultant. However, on perusal of the assessment order it is seen that the appellant attended personally and sought all adjournment. Hence he was completely aware of the situation but still chose not to comply the notices. The non compliance before AO is deliberate and without reasonable cause and appellant failed to justified. Appellant has failed to prove the admissibly of the additional evidence in view of rule 46A of the I.T. Act. There was no reasonable cause with the appellant for non compliance made during the course of assessment proceedings. Hence the additional evidence submitted by the appellant are hereby rejected.

7. *The order passed by the AO is based on factual information and there was no justification for source of cash deposited such a huge amount by the appellant individual who even did W file return; of income during the year made cash deposit in the personal account-maintained with society i.e. Renuka Mata Multi State Urban Co-op Credit Society Ltd. Therefore on merits I do agree with the findings of the AO and confirm the addition.”*

5. Aggrieved with such order of CIT(A) / NFAC, the assessee is in appeal before the Tribunal.

6. The Ld. Counsel for the assessee at the outset submitted that since the details could not be obtained during the course of assessment proceedings therefore, these could not be filed before the Assessing Officer. However, all those details were filed before the CIT(A) / NFAC and the CIT(A) / NFAC was requested to admit the same as additional evidence under Rule 46A of the I.T. Rules. He submitted that these additional evidences go to the root of the matter. He further submitted that the assessee is not well versed with the intricacies of the tax laws and there was miscommunication with the earlier consultant for which all these unfortunate events happened. He accordingly submitted that in the interest of justice the matter may be restored to the file of CIT(A) / NFAC with a direction to admit the additional evidence and adjudicate the issue as per fact and law.

7. The Ld. DR on the other hand heavily relied on the order of CIT(A) / NFAC and submitted that despite ample opportunity granted by the Assessing Officer, the assessee never bothered to file the requisite details, for which the CIT(A) / NFAC was fully justified in not admitting the additional evidence and sustaining the addition.

8. We have heard the rival arguments made by both the sides, perused the orders of the Assessing Officer and Ld. CIT(A) / NFAC and the paper book filed by both the sides. We have also considered the various decisions cited before us. We find that due to persistence non compliance of the assessee to the statutory notices issued, the Assessing Officer made the addition of Rs.2,54,30,800/- u/s 69A of the Act being the unexplained cash deposit in the bank account. We find, before the CIT(A) / NFAC the assessee filed certain additional evidences under Rule 46A of the Income Tax Rules, 1962 by stating that all those details could not be collected and submitted before the Assessing Officer due to miscommunication with the earlier consultant and the assessee was not well versed with the tax laws. It is also the submission of the Ld. Counsel for the assessee that given an opportunity, the assessee is in a position to substantiate with evidence to the satisfaction of the CIT(A) / NFAC regarding the source of cash deposit in the bank account. Considering the totality of the facts of the case and in the interest of justice, we deem it proper to restore the issue to the file of CIT(A) / NFAC with a direction to admit the additional evidence already filed before him and decide the issue as per fact and law. Needless to say, the CIT(A) / NFAC shall give reasonable opportunity of being to the assessee before deciding the appeal. We hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

9. Identical grounds have been raised by the assessee in the remaining appeals.

Following similar reasoning given at para 8 above, the grounds raised in these appeals for other years are also allowed for statistical purposes.

10. In the result, all the appeals filed by the assessee are allowed for statistical purposes.

Order pronounced in the open Court on 26th June, 2024.

Sd/-
(ASHTA CHANDRA)
JUDICIAL MEMBER

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

पुणे Pune; दिनांक Dated : 26th June, 2024

GCVSR

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent
3. The concerned Pr.CIT, Pune
4. DR, ITAT, 'A' Bench, Pune
5. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण ,पुणे
/ ITAT, Pune

S.No.	Details	Date	Initials	Designation
1	Draft dictated on	19.06.2024		Sr. PS/PS
2	Draft placed before author	19.06.2024		Sr. PS/PS
3	Draft proposed & placed before the Second Member			JM/AM
4	Draft discussed/approved by Second Member			AM/AM
5	Approved Draft comes to the Sr. PS/PS			Sr. PS/PS
6	Kept for pronouncement on			Sr. PS/PS
7	Date of uploading of Order			Sr. PS/PS
8	File sent to Bench Clerk			Sr. PS/PS
9	Date on which the file goes to the Head Clerk			
10	Date on which file goes to the A.R.			
11	Date of Dispatch of order			