

IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE "B" BENCH : PUNE

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

ITA.No.192/PUN./2024 [E-APPEAL]  
Assessment Year 2014-2015

Shri Pradeep Devram Jadhav, Shop No.3, M/s. Bharat Seeds Ambedkar Shopping Centre, Nagar Manmad Road, Yeola, Dist. Nashik. Maharashtra. PIN – 423 401. PAN ADMPJ4565G	vs.	The Income Tax Officer, Ward-3(1), Income Tax Office, Kendriya Rajaswa Bhawan, Gadkari Chowk, Nashik PIN – 422 001. Maharashtra.
(Appellant)		(Respondent)

For Assessee :	-None-
For Revenue :	Shri Sourabh Nayak, Addl. CIT

Date of Hearing :	18.06.2024
Date of Pronouncement :	27.06.2024

**ORDER**

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

This assessee's appeal for assessment year 2014-15, arises against the National Faceless Appeal Centre [in short the "NFAC") Delhi's Din and Order No.ITBA/NFAC/S/250/2023-24/1060070756(1), dated 24.01.2024, in proceedings u/s.271B of the Income Tax Act, 1961 (in short 'the Act").

Case called twice. None appears at assessee's behest. He had also not appeared on the last date of hearing

i.e., 10.05.2024. The assessee is accordingly proceeded ex-parte.

2. We note with the able assistance coming from the Revenue side that the learned CIT(A)-NFAC has upheld the Assessing Officer's action levying sec.271B penalty of Rs.59,153/- vide following lower appellate discussion :

*“(vi) In the present case, the order u/s 5(1) of VSV Act 2020 was already issued on 14.09.2020. The next step is, only the payment of disputed tax determined in that order and submission of Form-4. When notice was issued, the appellant simply replied that Form-5 was not issued to him and hence the appeal is maintainable. In order to get Form-5, the appellant ought to have paid disputed tax on or before the due date. In the present case, it is noticed that he did not pay the tax. At this point, the appellant decided to continue with appeal after receipt of Form-3. However, there is no scope given in VSV Act 2020. Further, there is no scope given in the VSV Act for the CIT(A) also to proceed with the appeal after issue of Form-3. Subsection (7) of section 4 is very clear.*

8. *In reply dated 08.01.2024, it was submitted that since final Form-5 was not issued, the appeal is not maintainable. In order to get Form-5, the declarant has to pay the disputed tax and he has to submit Form-4 to DA.*

*In this connection a specific notice was issued to appellant to furnish copy of Form-4 submitted before PCIT who is the DA. However, he did not give any reply to that notice. Hence, the appeal is dismissed as deemed to have been withdrawn on 14.09.2020.*

9. *Without prejudice to the above, the grounds of appeal filed against the 271B penalty order is also not maintainable on the ground that during the course of survey, he has admitted that he did not maintain any books of account in support of his business, the AO recorded that the turnover of the business was Rs.1,18,30,667/- and half percentage of the turnover or Rs.1,50,000/- whichever is less was treated as penalty u/s 271B of the IT Act. The AO rightly levied the penalty. It is for this reason the appellant opted for VSVs scheme and even obtained form-3 issued by DA as per section 5(1) of VSV Act. Instead of making the payment of disputed tax/disputed penalty the appellant mischievously pursuing this appeal. When specific clarification on this fact was called for, the appellant remained silent. Accordingly, the grounds of appeal taken by the appellant are dismissed.”*

3. It is clear from the above extracted lower appellate discussion that the assessee had failed to file all the relevant

details regarding his declaration under the Direct Tax VSV Act, 2020. Faced with this situation, we hardly see any reason to interfere with the impugned penalty in very terms. Ordered accordingly.

4. This assessee's appeal is dismissed in above terms.

Order pronounced in the open Court on 27.06.2024.

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

Sd/-  
[SATBEER SINGH GODARA]  
JUDICIAL MEMBER

Pune, Dated 27<sup>th</sup> June, 2024

VBP/-

Copy to

1.	The applicant
2.	The respondent
3.	The Pr. CIT, Pune concerned
4.	D.R. ITAT, B-Bench, Pune
5.	Guard File.

//By Order//

//True Copy //

Sr. Private Secretary, ITAT, Pune Benches,  
Pune.