

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

**BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER  
AND  
SHRI VINAY BHAMORE, JUDICIAL MEMBER**

आयकर अपील सं. / ITA No.120/PUN/2024  
निर्धारण वर्ष / Assessment Year : 2017-18

Manali Chimanrao Patil, Mahalaxmi Auto Kajgaon Road, Parola Taluka, Parola, Jalgaon – 425 111 Maharashtra PAN : ASZPP2698G	Vs.	ITO, Ward-2(3), Jalgaon
Appellant		Respondent

Assessee by : Shri Sanket M. Joshi (through Virtual)  
Revenue by : Shri Ramnath P. Murkunde  
Date of hearing : 10.07.2024  
Date of pronouncement : 10.07.2024

**आदेश / ORDER**

**PER INTURI RAMA RAO, AM:**

This is an appeal filed by the assessee directed against the order of the National Faceless Appeal Centre, Delhi ['NFAC'] dated 27.11.2023 for the assessment year 2017-18.

2. Briefly, the facts of the case are that the appellant is an individual engaged in running a Petrol Pump. The Return of Income for the A.Y. 2017-18 was filed on 03.07.2017 disclosing total income of Rs.3,66,534/-. The case was selected for complete scrutiny. Statutory notices u/s.143(2) and 142(1) were issued to the appellant. The appellant had not complied with any of the notices. The AO based on the information available with the Department found that the assessee had debited expenses, viz., Generator expenses, Salary expenses, Account writing expenses and Interest to creditors expenses

aggregating to Rs.4,37,288/-. Further, the assessee made cash deposits with State Bank of India, Parola, Jalgaon amounting to Rs.1,38,46,380/-. In the absence of furnishing any submissions by the assessee/failure of the assessee to explain the source of cash deposit, the AO vide order u/s.144 dated 26.12.2019 treated the expenses as Income from Business/Profession and the cash deposits made as unexplained money u/s.69A of the Act.

3. Being aggrieved by the above assessment order, an appeal was filed before the CIT(A) who vide impugned order dismissed the appeal without going into the merits of the case.

4. Being aggrieved, the appellant is in appeal before this Tribunal in the present appeal.

5. The Id. AR submits that the assessee's case was not represented before the authorities for the reasons beyond control of the assessee, which led to passing of the *ex parte* orders. Therefore, the assessee could not substantiate the expenses and the cash deposits made with SBI, Parola Branch. Given an opportunity, the assessee is able to prove the sources of cash deposits and the claim of expenses by filing the evidences. He therefore prayed for remanding the matter to the file of CIT(A)/NFAC.

6. On the other hand, the Id.Sr.DR placing reliance on the orders of the authorities submits that no interference is called for

7. We heard the rival submissions and perused the material on record. Undisputedly, the assessee had not complied with the notices and the authorities have dismissed the appeal of the appellant *ex parte* without going into the merits of the issues. Further, it is a trite law that the NFAC should have dealt with the merits of the issue in appeal, even

in the case of *ex-parte* order. From the perusal of the impugned order, it would reveal that the NFAC had not gone into the merits of the issue in appeal, merely dismissed the appeal for non-prosecution, which is contrary to the settled position of law. Considering the entirety of the facts and circumstances and the submissions of the assessee, we are of the considered opinion that it is a fit case for remand of the matter to the file of the NFAC for *de novo* consideration in accordance with law after affording due opportunity of hearing to the assessee.

8. In the result, the appeal filed by the assessee stands partly allowed.

Order pronounced on this 10<sup>th</sup> day of July, 2024.

sd/-  
(VINAY BHAMORE)  
JUDICIAL MEMBER

sd/-  
(INTURI RAMA RAO)  
ACCOUNTANT MEMBER

Pune / Dated : 10<sup>th</sup> July, 2024.  
*Satish*

**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, "A" बेंच, पुणे / DR, ITAT, "A" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

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