



IN THE INCOME TAX APPELLATE TRIBUNAL, 'SMC' BENCH PUNE
BEFORE HON'BLE SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER
AND

SHRI VINAY BHAMORE, JUDICIAL MEMBER

ITA No. 859/PUN/2024
Assessment Year : 2016-17

Baba Shivaji Khawale,
1264, Near Nagraj Body Builder,
Chikhali, Pune-411062.
PAN: BQAPK3725R.

..... Appellant

V/s

The Income Tax Officer,
Ward-8(3), Pune.

..... Respondent

Appearances

Assessee by : Mr B B Mane through Mr Ankesh['Ld. AR']

Revenue by : Mr Umashankar Prasad ['Ld. DR']

Date of conclusive Hearing : 23/07/2024

Date of Pronouncement : 23/07/2024

ORDER

PER G. D. PADMAHSHALI, AM;

The assessee is in appeal against the DIN & Order No. ITBA/NFAS/S/250/2023-24/1062105966(1) dt. 06/03/2024 passed u/s 250 of the Income-tax Act, 1961 ['the Act' hereinafter] by the National Faceless Appeal Centre ['NFAC' hereinafter] passed which in turn confirmed the order of assessment passed u/s 147 r.w.s. 144 of the Act by the National Faceless Assessment Centre ['NeAC' hereinafter] anent to assessment year 2016-17 ['AY' hereinafter];

2. After preliminary briefing from the Ld. DR, we deem it fit to reject the request for adjournment and proceeded to adjudicate the matter on merits with the able assistance from the Revenue.



3. Tersely stated the facts of the case are that;

3.1 The assessee is an individual who was identified as 'NON-Filer' and in whose case the Revenue was in receipt of information from CRIU/VRU that the assessee made investment through credit/cash deposit of ₹40,94,570/- into an account held by him with 'Shri Renuka Mata Urban Credit Coop. Society Ltd' ['NBFC' hereinafter]. For the reason, after obtaining approval u/s 151(2) of the Act, the case of the assessee was re-opened u/s 147 of the Act and a notice u/s 148 dt. 30/03/2021 was issued.

3.2 When the assessee failed to a file return in response to aforesaid 148 notice and explain the nature & source of proof credit/cash deposits made into his account maintained with NBFC, the Ld. NeAC treated the entire sum credited/deposited as unexplained money u/s 69A of the Act and brought to tax accordingly vide an assessment order dt. 21/03/2022 framed u/s 147 r.w.s. 144 r.w.s. 144B of the Act.

3.3 Aggrieved assessee unsuccessfully contested former addition in an appeal before Ld. NFAC.

4. Aggrieved by the order of first appellate authority the assessee came in present appeal with following grounds;

1. The appellant, an individual lacking knowledge of the intricacies of income tax procedures, did not receive notices issued for reopening assessment under section 148 of the Act. These notices were instead sent to an email address associated with vijayjadhav1255@gmail.com, which is unrelated to the appellant. Because of the fact that the appellant was not served with the notices, the Learned Assessing Officer (Ld. AO) of the National Faceless Assessment Centre (NaFAC) Learned Assessing Officer (Ld. AO) erred under circumstances and facts of the case and in law by not providing reasonable opportunity to appellant to submit sufficient explanations, reasons and proper material to rebut addition.



2. The Ld. AO erred in law and on facts in assessing the total income of the appellant at Rs. 40,94,570 / - after adding alleged unexplained money u/s 69A and passing assessment order under section 147 r. w. s. 144 of Income Tax Act 1961 (the Act) by treating gross sales amounts deposited by purchasers.

3. Under the circumstances and facts of the case and in accordance with the law, the NATIONAL FACELESS APPEAL CENTRE (NFAC) Learned Commissioner of Income Tax Appeal (Ld. CIT(A)) grossly erred by mechanically confirming the addition of Rs. 40,94,570/- carried out by Ld. AO, which amount was deposited by scrap purchasers at the Jalana branch of Shri Renuka Mata Multi State Urban Cooperative Credit Society Ltd. (in short Society/SRMSCS), on multiple occasions.

4. Appellant contends that, the amount of Rs. 40,94,570/- was bank credits received in the bank by the scrap aggregator dealers for purchase of scrap in bulk. The said amounts is withdrawn from time to time for making further payments to small various local vendors who dumps their scraps on daily basis. Appellant contends that the said money was not any unexplained money at all.

5. The appellant caves leave to add, alter, modify or amend the Grounds of appeal.

5. Needless to state that grounds of appeal are argumentative in nature and inconsonance with rule 8 of ITAT-Rules, 1963 hence deem unfit for ground wise adjudications. However, it shall suffice to state that, the sole & substantive ground/issue is directed against the *ex-parte* addition carried out by the Ld. NeAC and *ex-parte* adjudication by the first appellate authority.

6. Heard rival parties on limited issue and subject to rule 18 of ITAT-Rules 1963 perused material placed on record and considered the fact & circumstances of these cases in the light of settled legal position and case laws relied upon by rival parties.



7. We note that, the failure on the part of assessee to file return in pursuance of notice issued u/s 148 of the Act and failure to effectively explain the nature & source of proof of credit/cash deposit made into his account held with NBFC was sheerly attributed to non-receipt of notices on the registered email to which assessee had access. This resulted into ex-parte addition/assessment. When the matter travelled in appeal before the first appellate authority the assessee was placed indifferently, thus yielded the same result.

8. Considering the totality of facts, we are satisfied that the assessee had no knowledge of the on-going assessment proceedings and was for sufficient reason/cause prevented from making effective representation before the Ld. NFAC which resulted into ex-parte assessment/adjudication. In the larger interest of justice, for granting one more opportunity to the assessee we deem it fit to set-aside the impugned order and remand the case back to the stage of first appeal with a direction to the Ld. NFAC to decide the issue *de-novo* in accordance with law preferably in three effective opportunities and pass a speaking order u/s 250(6) of the Act, ordered accordingly.

9. The appeal in results is ALLOWED FOR STATISTICAL PURPOSES.

In terms of rule 34 of ITAT Rules, the order pronounced in the open court on this Tuesday, 23rd July, 2024.

-S/d-

VINAY BHAMORE
JUDICIAL MEMBER

-S/d-

G. D. PADMAHSHALI
ACCOUNTANT MEMBER

पुणे / PUNE ; दिनांक / Dated : 23rd July, 2024.

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

1. अपीलार्थी / The Appellant.

2. प्रत्यर्थी / The Respondent.

3. The Pr. CIT Concerned.

4. The CIT(A)/NFAC Concerned.

5. DR, ITAT, 'SMC' Bench, Pune

6. गार्डफ़ाइल / Guard File.

आदेशानुसार / By Order

वरिष्ठ निजी सचिव / Sr. Private Secretary

आयकर अपीलीय न्यायाधिकरण, पुणे / ITAT, Pune.