



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. 1055 to 1056 & 1060 to 1061/PUN/2024
Assessment Year : 2012-13-to 2013-14 & 2017-18-to-2018-19

Suhas Maruti Dhankude,
171/1, Seema Park,
Banergaon, Baner, Pune -411045.
PAN: AOHPD1571J.

..... Appellant

V/s

Jt./Asstt. Commissioner of Income Tax
Central Circle, Pune.

..... Respondent

Appearances

Assessee by : Mr UK Chavan ['Ld. AR']
Revenue by : Mr Umashankar Prasad ['Ld. DR']
Date of conclusive Hearing : 25/07/2024
Date of Pronouncement : 01/08/2024

ORDER

PER G. D. PADMAHSHALI, AM;

This bunch of four appeals of the assessee instituted u/s 253(1) of the Income-tax Act, 1961 ['the Act' hereinafter] impugns the following orders of Ld. Commissioner of Appeals-12, Pune ['Ld. CIT(A)' hereinafter] passed u/s 250 of the Act, which in turn arisen out of respective orders of assessment passed by the Ld. Jt. Commissioner of Income Tax (OSD), Central Circle-2(4) and by the Ld. Asstt. Commissioner of Income Tax, Central Circle-2(4), Pune ['Ld. AO' hereinafter] for the respective assessment years ['AY' hereinafter]



Sr	ITA No	AY	Order of Asstt		First Appellate Order under challenge		
			framed u/s	Dt	Passed u/s	Dt	DIN & Order No
1	1055/PUN/2024	2012-13	144 r.w.s. 153C	20/04/2021	250	16/03/2024	ITBA/APL/S/250/2023-24/1062747754(1)
2	1056/PUN/2024	2013-14	144 r.w.s. 153C	21/04/2021			ITBA/APL/S/250/2023-24/1062747942(1)
3	1060/PUN/2024	2017-18	144 r.w.s. 153C	23/04/2021			ITBA/APL/S/250/2023-24/1062748333(1)
4	1061/PUN/2024	2018-19	144 r.w.s. 153C	23/04/2021			ITBA/APL/S/250/2023-24/1062748398(1)

2. Since the facts and threadbare issue involved in this bunch of appeals are common & identical, on the request from rival parties, for the sake of brevity & expediency these appeals are heard together for a common and consolidated order.

3. Briefly stated the common facts emanating from the records are that;

3.1 A search action on a 'Baburao D Chandere' and his family members ['Searched Party / SP' hereinafter] was carried out u/s 132 of the Act on 19/12/2017 wherein the residential premises of the assessee viz; B/1, 601, Aditya Smruti Apartment, Samson Bhoomi Road, Baner, Pune-411045 was covered. In connection therewith a statement of the assessee was recorded on even date u/s 132(4) of the Act, who was identified as the non-filer who did file no income tax returns for the years under consideration.

3.2 The case of the assessee by an order dt. 25/10/2018 u/s 127(2) was first centralised and subsequently transferred to Ld. DCIT, Central Circle-2(4), Pune by an order dt. 26/08/2019 passed u/s 127(1) of the Act.

4. ITA No 1055 & 1056/PUN/2024;

4.1 Placing on record the satisfaction from the assessing officer of searched party and the assessee, the assessment proceedings u/s 153C of the Act against the assessee



were initiated and by notice dt. 21/10/2020 was called upon to file return of income. The assessee filed return of income declaring total income of ₹1,80,000/- & ₹2,00,000/-for the AY 2012-13 & 2013-14. The said returns were then subjected for scrutiny by service of notice u/s 143(2) of the Act.

4.2 In the event of failure on the part of assessee to comply with the subsequent notices issued u/s 142(1) of the Act and tender evidential material in support of return of income filed in pursuance of notice issued the Ld. AO preceded *ex-parte* and completed the assessment u/s 144 r.w.s. 153C of the Act by making various additions u/s 69A of the Act towards unexplained (a) cheque return, bank deposit etc. (b) purchase of jewellery; u/s 69 towards explained investment in land and unaccounted rent, agricultural income etc.

4.3 Aggrieved assessee filed separate appeals which came dismissed by the Ld. CIT(A) by a consolidated order passed u/s 250 of the Act wherein the legal grounds (Ground No 1 & 3) challenging the invocation of 153C jurisdiction and additions made *ex-parte* in violation of principle of natural justice were left unadjudicated holding them as '*general in nature & do not require separate adjudication*'.

5. ITA No 1060 & 1061/PUN/2024;

5.1 In response to notice u/s 153C of the Act the assessee filed returns declaring total income of ₹2,93,294/- for AY 2017-18 and ₹2,96,750/- for AY 2018-19 respectively. These returns were also subjected to scrutiny and assessments in these cases were also completed u/s 144 r.w.s. 153C by making certain additions towards (a) unaccounted/undisclosed rental income from Mangal Karyalaya (Heera Garden) (b)



unexplained investment in land (c) undisclosed shop rent (d) unexplained/unsubstantiated agricultural income (e) unexplained expenditure (f) unexplained cash found at the searched premises etc.

5.2 Against these assessments too the assessee filed separate appeals which also came dismissed by the Ld. CIT(A) by an order passed u/s 250 of the Act wherein the legal grounds (Ground No 1 & 3) challenging the invocation of 153C jurisdiction and additions made *ex-parte* in violation of principle of natural justice were left unadjudicated holding them as '*general in nature & do not require separate adjudication*'.

6. Aggrieved assessee came before us in separate appeals challenging the adjudications of first appellate authority on various grounds which are argumentative in nature and inconsonance with rule 8 of ITAT-Rules, 1963 hence reproduction thereof deem unfit for the purpose of adjudications. However it shall suffice to state that, these grounds collective are directed against;(a) non-adjudication of legal ground raised challenging the very jurisdiction of Ld. AO in invoking proceedings u/s 153C of the Act and(b)challenging the assessment/re-assessment on merits of the case/s etc.

7. At the outset of physical hearing, the rival parties sought our attention to the impugned consolidated order and commonly submitted that the legal ground raised before first appeal challenging the very jurisdiction of assessing the income of the assessee u/s 144 r.w.s. 153C of the Act was dismissed by the Ld. CIT(A) without adjudication. Therefore, the impugned consolidate order is suffered from the provisions of section 250(6) of the Act. For the reasons, the assessee without touching the merits of the case sought to remand these matters back to the file of Ld. CIT(A)



with a bullet direction to deal with twofold legal issues and pass a speaking order in terms of section 250(6) of the Act. The Ld. DR candidly solidified the fact but could hardly pull apart the request of the assessee for remanding the matter for re-adjudication.

8. Heard rival parties on former 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. From Pg 6/40 para 3, Page 11/40 para 9, Pg 34/40 para 34, and para 41 of Pg 38/40 of the impugned consolidated order we observed that, the legal grounds assailed challenging the jurisdiction to assess/re-assess income u/s 153C of the Act before Ld. CIT(A) was dismissed as general without adjudicating it in terms of s/s (6) of section 250 of the Act. Besides above we also note that, while adjudicating the grounds on merits, the Ld. CIT(A) did perfunctorily disposed-off the appeals of the appellant assessee without recording his independent findings.

9. Dispensing reproduction of provision in verbatim, we note here that, a plain reading of section 250 of the Act reveals that, in first appellate proceedings it is incumbent upon the Ld. CIT(A); *(i) to make necessary enquiries (ii) to deal with each issue under challenge on merits and (iii) to decide the grievance under appeal by a well speaking order by stating therein (a) point of his determination, (b) decision arrived thereon and (c) clear reasons therefore.* A conjoint reading of s/s (4) r.w/s/s (6) of section 250 of the Act further unveils that the Ld. CIT(A) while exercising his jurisdiction u/s 251(1)(a) of the Act is in no case empowered to dismiss any ground without dealing with it in former terms.



10. It is a trite law as laid down by Hon'ble Supreme Court in case '*Chandra Kishore Jha Vs Mahavir Prasad*' reported in 8 SCC 266 (SC), that 'if a statute provides for a thing to be done in a particular manner, then it has to be done in that manner and in no other manner'. In view hereof, any adjudication by the first appellate authority sidestepping the dictate is not in consonance with the provision of sub-section (6) of section 250 of the Act. Hence deserves to be set-aside.

11. In the instance cases, the impugned consolidated order since suffered from the provisions of s/s (6) of section 250 of the Act on account of (a) non-adjudication of legal ground/s raised by assessee and (b) failure to state point of determination, decision thereon and reasoning in arriving such decision, we therefore deem it proper to set-aside the impugned consolidated order and remand these matters back to the file first appellate authority in faceless regime with a direction to adjudicate them *de-novo* in accordance with law and pass assessment year-wise separate speaking orders in terms of section 250(6) of the Act separately in each case. We ordered accordingly.

12. In result these four appeals of the assessee are ALLOWED FOR STATISTICAL PURPOSES in above terms.

In terms of rule 34 of ITAT Rules, the order pronounced in the open court on this Thursday, 01st August, 2024.

-S/d-

VINAY BHAMORE
JUDICIAL MEMBER

-S/d-

G. D. PADMAHSHALI
ACCOUNTANT MEMBER

पुणे / PUNE ; दिनांक / Dated : 01st August, 2024.

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

1. अपीलार्थी / The Appellant.
4. The CIT(A) Concerned.

2. प्रत्यर्थी / The Respondent.
5. DR, ITAT, 'SMC' Bench, Pune

3. The Pr. CIT Concerned.
6. गार्डफाइल / Guard File.

आदेशानुसार / By Order
वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय न्यायाधिकरण, पुणे / ITAT, Pune.