



।आयकर अपीलीय अधिकरण "एस एम सी" न्यायपीठ पुणे में।  
IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCHES "SMC" :: PUNE

**BEFORE DR.DIPAK P. RIPOTE, ACCOUNTANT  
MEMBER AND  
SHIR VINAY BHAMORE, JUDICIAL MEMBER**

आयकर अपील सं. / ITA No.1239/PUN/2024  
निर्धारण वर्ष / Assessment Year: 2017-18

Sanjay Shamrao Patil, 2013/3, Anu Krishna Niwas E Ward, Rukmini nagar, Maharashtra – 416001. PAN: ABQPP6417K	Vs	The Income Tax Officer, Ward-2(1), Kolhapur.
Appellant/ Assessee		Respondent / Revenue

Assessee by	None
Revenue by	Shri Sandeep P Sathe – JCIT(DR)
Date of hearing	22/08/2024
Date of pronouncement	23/08/2024

**आदेश/ ORDER**

**PER DR. DIPAK P. RIPOTE, AM:**

This is an appeal filed by Assessee against the order of Id.Commissioner of Income Tax(Appeal)[NFAC], passed under section 250 of the Income tax Act, dated 30.03.2024 for the A.Y.2017-18. The assessee has raised the following grounds of appeal :

- 1) *The order dated 30-03-2024 hearing No. ITBA/NFAC/S/250/2023-24/1063699666(1) passed under section 250 of Income-tax Act, 1961 by the Hon'ble CIT[Appeals], National Faceless Appeal Centre [NFAC],*



*Delhi, is excessive, unreasonable, arbitrary, against the provisions of Income-tax Act, 1961 and therefore liable to be quashed.*

- 2) *On facts and circumstances of the case and in law, the Hon. C. I. T. (Appeals). NFA C, Delhi has erred in non-condoning the delay in presenting the Appellant even though sufficient cause was demonstrated beyond doubt.*
- 3) *On facts and circumstances of the case and in law, the Hon. C.I. T. (Appeals), NFA C, Delhi has grossly erred in passing the order under section 250 of Income-tax Act, 1961 without even affording a personal hearing to the Appellant to present its case.*
- 4) *The Essential element of IDS scheme 2016 which is the tax payment that is being totally ignored by the Learned Assessing Officer.*
- 5) *Non Consideration of submitted FORM 3 duly acknowledged by the Income Tax Authorities.*
- 6) *Non-reflection of Challans does not tantamount to non-payment of challans for considering the income declared as the income of A Y 2017-2018.*
- 7) *The assessee craves leave to amend, alter or delete any of the above grounds of appeal.*
- 8) *It is prayed that the above claims and allowances be allowed”*

2. At the outset of hearing, no one appeared on behalf of the assessee. No one had appeared for earlier hearing on 19/08/2024 .

Hence, we proceeded ex-party.

### **Findings and Analysis :**

3. We heard Ld.Departmental representative(ld.DR) for the Revenue and perused the records.



3.1 In this case it is observed by the Assessing Officer in the Assessment Order that the Assessee had Declared Income of Rs.17,64,513/- for AY 2014-15 under IDS-2016. Form No.2 was issued to the assessee and assessee was asked to pay the Tax of Rs.7,94,032/- on or before 30/09/2017. In the Assessment order the AO observed that since assessee failed to pay the Tax of Rs.7,94,032/- , as per provisions of Section 187(3) & 197 of IDS 2016, Income of Rs.17,64,513/- was treated as Income of AY 2017-18, hence notice u/s 148 was issued in the case of the assessee. During the reassessment proceedings the Assessee filed a reply and submitted that entire Tax has been paid as per IDS 2016 scheme ,assessee also submitted copies of Challans as a proof of payments. In spite of this the AO made addition of Rs.17,64,513/- as undisclosed income .Aggrieved by the Assessment order the Assessee filed appeal before the Id.Commissioner of Income Tax(Appeal). Ld.CIT(A) dismissed the appeal on the ground of delay, though in the Appeal Order, the Id.CIT(A) has reproduced assessee's submission explaining details of tax paid under IDS-2016 along with amount of Tax, Date of Payment, Challan Number, BSR code. Ironically, in spite of having all these details

the ld.CIT(A) merely dismissed the appeal on account of delay in filling appeal. The chart of Tax paid appearing in the order of CIT(A) is as under :

% of Total Tax	Due date	Date of Payment	Tax Payable of Rs.	Tax Paid of Rs.	Challan No	BSR Code
50%	30/11/2016	28/11/2016	132339.00	198508	52245	6910333
25%	31/03/2017	30/03/2017	132339.00	198508	61712	6910333
25%	30/09/2017	29/09/2011	529354.00	397015	46229	6360218
100%			794032.00	794031.00		

3.2 During the last hearing on 19/08/2024, we had directed the Ld.DR for the Revenue to verify from the ITO regarding the payment of Taxes as claimed by the assessee in the grounds of appeal and whether the FORM Number 4 has been issued by the Commissioner of Income tax or not!. Ld.DR filed letter dated 20/08/2024 of the Income Tax Officer ward 2(1) Kolhapur along with the annexures. The letter of the ITO filed by the ld.DR is reproduced here under :



Respected Sir,

**Sub:-** Factual report in the case of **Sanjay Shamrao Patil, PAN-ABQPP6417K**  
2103/3 Anu-Krishna Nivas, E-Ward Rukmini Nagar, Kolhapur-416001.  
for the **A. Y. 2017-18** - reg.

**Ref:** 1) The ITAT-III, Pune's e-mail dated 20.08.2024.  
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Kind reference is invited to the above subject.

2. The assessee is individual and filed his return of income for the A.Y. 2017-18 on 30.10.2017 declaring total income of Rs.13,34,110/-. The assessee made declaration under Income Declaration Scheme (IDS) 2016 and disclosed income of Rs.17,64,513/- for the relevant year and the total tax payable was arrived at Rs.7,94,032/-.

3. As per provision of section 187 of IDS scheme 2016, the declarant shall pay tax, surcharge and penalty total amounting 45% of the declared amount in three instalment as under:

i.	25%	i.e. 1,98,508/- on 7,94,032/-	by 30.11.2016
ii.	25%	i.e. 1,98,508/- on 7,94,032/-	by 31.03.2017
iii.	50%	i.e. 3,97,015/- on 7,94,032/-	by 30.09.2017

4. The assessee paid the taxes under the said scheme as under:

Sr. No.	%	Amount	Date	Challan No.
i.	25%	1,98,508/-	28.11.2016	46229
ii.	25%	1,98,508/-	30.03.2017	61712
iii.	50%	3,97,015/-	29.09.2017	52245

5. The Hon'ble Pr. Commissioner of Income Tax-1, Pune has issued Form No.4 to the assessee on 17.01.2024.

6. In view of the above and as per directions of the Hon'ble Member, SMC Bench, ITAT, Pune the factual report submitted with elaborating the all queries/points.

3.3 Thus it is observed from the Letter of the ITO and Form no.4, that the assessee has paid entire Tax of Rs.7,94,032/- before the specified date 30/09/2017. The Pr.Commissioner of Income Tax has issued the Form No.4 on 17/01/2024 vide Acknowledgement Number: 903280411170124. It means as per IDS-2016, the declaration of the assessee has been accepted by the Pr.Commissioner of Income Tax as he has issued the Form No.4. The Hon'ble Supreme Court has observed in the case of Sadhana R. Jain vs CBDT vide order dated 18 May 2022 that once the assessee has paid the entire tax and Interest (in that case there was



delay in tax payment hence assessee was required to pay Interest) then the assessee would be entitled to the benefit of the Income Declaration Scheme of 2016 (IDS).

4. In these facts and circumstances of the case, it is held that the Notice u/s 148 issued by the AO is bad in Law as at the time of issue of Notice u/s 148 the Assessee had paid the entire amount of Tax as provided in the IDS 2016. Therefore, the reasons recorded by the AO for issuing 148 were factually incorrect. In these facts and circumstances, we hold that the impugned assessment order is bad in law, accordingly we direct the Assessing Officer to delete the addition of Rs.17,64,513/-.

4.1 Accordingly, the grounds of appeal raised by the assessee are allowed.

5. In the result Appeal of the Assessee Allowed.

Order pronounced in the open Court on 23<sup>rd</sup> August, 2024.

**Sd/-**  
**(VINAY BHAMORE)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(DR. DIPAK P. RIPOTE)**  
**ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated : 23<sup>rd</sup> August, 2024/ SGR\*

**आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.
5. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, "एस एम सी" बेंच,  
पुणे / DR, ITAT, "SMC" Bench, Pune.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

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