

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

**BEFORE SHRI R. K. PANDA, VICE PRESIDENT  
AND  
SHRI S.S. GODARA, JUDICIAL MEMBER**

**ITA No.964/PUN/2024  
Assessment year : 2015-16**

Shri Gulab Maruti Dhankude S.No.171/5, Seema Park, Banergaon, Pune – 411045	<b>Vs.</b>	DCIT / ACIT, Central Circle 2(4), Pune
<b>PAN : AAXPS0500D</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by : S/Shri B.C. Malakar, Advocate and  
Yuvraj V Bhandare, CA  
Department by : Shri Keyur Patel, CIT-DR  
Date of hearing : 28-08-2024  
Date of pronouncement : 29-08-2024

**ORDER**

**PER R. K. PANDA, VP :**

This appeal filed by the assessee is directed against the order dated 08.03.2024 of the CIT(A), Pune-12 relating to assessment year 2015-16.

2. Facts of the case in brief, are that the assessee is an individual deriving income from the business. He filed his return of income on 07.10.2015 declaring total income at Rs.10,22,170/-. In response to notice u/s 153C of the Income Tax Act, 1961 (hereinafter referred to as 'the Act'), the assessee filed the return on 08.12.2020 declaring total income at Rs.10,22,170/-. The assessment order was passed on 24.03.2021 determining the total income at Rs.1,06,83,170/-.

3. During the course of search, statement u/s 132(4) of the Act was recorded wherein the assessee has admitted that he has not disclosed the total amount of Rs.32,15,800/- under various heads in the return of income filed in response to the notice u/s 153C of the Act for assessment year 2015-16. Therefore, recording reasons for reopening after obtaining due approval from the competent authority, notice u/s 148 of the Act was issued. The assessee, in response to the notice u/s 148 of the Act, filed his return of income declaring total income at Rs.10,22,170/-. Statutory notices u/s 143(2) and 142(1) of the Act were issued and served on the assessee. However, there was no proper compliance from the side of the assessee. The Assessing Officer, therefore, completed the assessment u/s 144 of the Act determining the total income of the assessee at Rs.1,38,98,970/- wherein he made addition of Rs.7,20,000/- on account of undisclosed rental income, Rs.11 lacs on account of cash deposits and Rs.13,95,800/- on account of undisclosed income for purchase of vehicle.

4. In appeal, the CIT(A) granted part relief to the assessee.

5. Aggrieved with such order of the CIT(A), the assessee is in appeal before the Tribunal.

6. The Ld. Counsel for the assessee at the outset submitted that under identical circumstances the Tribunal in assessee's own case for assessment years 2011-12 to 2014-15 and 2016-17 to 2017-18 vide ITA Nos.960 to 963/PUN/2024 & 965 to

968/PUN/2024, order dated 22.07.2024 has restored the issue to the file of the CIT(A). He accordingly submitted that he has no objection if the issues raised in the present appeal are restored to the file of the CIT(A) for fresh adjudication in light of the decision of the Tribunal in assessee's own case for the preceding and succeeding years.

7. The Ld. DR fairly conceded that the Tribunal, in assessee's own case for the immediately preceding and succeeding years, has restored the issue to the file of the CIT(A) with certain directions.

8. We have heard the rival arguments made by both the sides, perused the orders of the Assessing Officer and Ld. CIT(A) and the paper book filed on behalf of the assessee. We have also considered the various decisions cited before us. We find under identical circumstances the Tribunal in assessee's own case for assessment years 2011-12 to 2014-15 and 2016-17 to 2017-18 vide ITA Nos.960 to 963/PUN/2024 & 965 to 968/PUN/2024, order dated 22.07.2024 has restored the issue to the file of the CIT(A) by observing as under:

*“9. At the outset of virtual hearing, the rival parties sought our attention to the impugned orders and commonly submitted that the legal ground raised before first appeal challenging the very jurisdiction of re-opening of assessment u/s 147/148 of the Act and 153C of the Act was dismissed by the Ld. CIT(A) without adjudication. Therefore, the impugned orders are 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 the legal issue 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.*

10. 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. From Pg 5/6 para 4, Page 24/71 para 7, Pg 15/70 para 6, and Pg 27/69 para 13, Pg 57/69 para 26 and Pg 68/69 para 34, Pg 55/72 para 23 & Pg 74/75 para 30 of their respective impugned orders we observed that, the legal ground assailed challenging the jurisdiction to assess/re-assess income u/s 153C/147 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.

11. 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.

12. 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.

13. In the instance cases, the impugned orders 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 fit to set-aside these impugned orders and remand these matters 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. Ergo ordered accordingly."

9. Since the assessee has raised identical grounds in the impugned assessment year, therefore, respectfully following the decision of the Tribunal in assessee's own case for the preceding and succeeding years, we deem it proper to restore the issue to the file of the CIT(A) with a direction to adjudicate the issue afresh in light

of the directions of the Tribunal for the preceding and succeeding years cited (supra). The grounds of appeal raised by the assessee are accordingly allowed for statistical purposes.

10. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 29<sup>th</sup> August, 2024.

**Sd/-**  
(S.S.GODARA)  
JUDICIAL MEMBER

**Sd/-**  
(R. K. PANDA)  
VICE PRESIDENT

पुणे Pune; दिनांक Dated : 29<sup>th</sup> August, 2024  
GCVSR

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent
3. The concerned Pr.CIT
4. DR, ITAT, 'A' Bench, Pune
5. गार्ड फाईल / Guard file.

**// True Copy //**

**आदेशानुसार/ BY ORDER,**

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

S.No.	Details	Date	Initials	Designation
1	Draft dictated on	28.08.2024		Sr. PS/PS
2	Draft placed before author	28.08.2024		Sr. PS/PS
3	Draft proposed & placed before the Second Member			JM/AM
4	Draft discussed/approved by Second Member			AM/AM
5	Approved Draft comes to the Sr. PS/PS			Sr. PS/PS
6	Kept for pronouncement on			Sr. PS/PS
7	Date of uploading of Order			Sr. PS/PS
8	File sent to Bench Clerk			Sr. PS/PS
9	Date on which the file goes to the Head Clerk			
10	Date on which file goes to the A.R.			
11	Date of Dispatch of order			