

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

**BEFORE SHRI R. K. PANDA, VICE PRESIDENT
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER**

**ITA No.974/PUN/2024
Assessment Year : 2014-15**

Deepak Shivram Palve S No 2 & 3, Suyojit Sankul, Mumbai Naka, Nashik – 422005	Vs.	ACIT, Circle – 2, Nashik
PAN: AMIPP7763K		
(Appellant)		(Respondent)

Assessee by : Shri Pramod S Shingte
Department by : Shri Ramnath P Murkude
Date of hearing : 04-09-2024
Date of pronouncement : 04-09-2024

ORDER

PER R. K. PANDA, VP :

This appeal filed by the assessee is directed against the *ex-parte* order dated 01.11.2023 of the CIT(A) / NFAC, Delhi relating to assessment year 2014-15.

2. Although a number of grounds have been raised by the assessee, however, these all relate to the *ex-parte* order of the CIT(A) / NFAC in confirming the various additions made by the Assessing Officer.

3. Facts of the case, in brief, are that the assessee is an individual and engaged in the business of Pest control and Fumigation activity. He filed his return of income on 30.11.2014 declaring total income of Rs.44,98,828/-. The Assessing Officer completed the assessment u/s 143(3) of the Income Tax Act, 1961

(hereinafter referred to as 'the Act') in which he made addition of Rs.65,51,415/- on account of disallowance of exemption claimed u/s 54F of the Act, Rs.60,000/- on account of capital introduction, Rs.1,49,524/- on account of proportionate disallowance of interest u/s 14A on cash credit, Rs.4,46,711/- on account of adhoc disallowance @ 25% out of business promotion expenses claimed and Rs.35,000/- on account of household expenses. Thus, the Assessing Officer made total addition of Rs.75,57,650/- to the returned income.

4. Since the assessee did not appear before the CIT(A) / NFAC despite number of opportunities granted, the CIT(A) / NFAC in the *ex-parte* order passed by him sustained the various additions made by the Assessing Officer.

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

6. The Ld. Counsel for the assessee submitted that although the CIT(A) / NFAC has granted number of opportunities, however, the Counsel appointed by the assessee did not make proper representation and the assessee was not aware of the same since he was fully dependent on the previous Counsel. He submitted that in the interest of justice, the assessee should be given one final opportunity to substantiate his case.

7. The Ld. DR on the other hand strongly objected to the arguments advanced by the Ld. Counsel for the assessee and submitted that the CIT(A) / NFAC has

given number of opportunities and the assessee had sought adjournment on two occasions and thereafter there was no compliance at all from the side of the assessee. Therefore, no further opportunity should be granted to the assessee and the additions made by the Assessing Officer and sustained by the CIT(A) / NFAC should be upheld since the Ld. CIT(A) / NFAC has passed a speaking order on the basis of material available on record.

8. We have heard the rival arguments made by both the sides and perused the orders of the Assessing Officer and Ld. CIT(A) / NFAC. We find due to non-compliance from the side of the assessee to the various notices issued by the office of the CIT(A) / NFAC, the CIT(A) / NFAC has passed the *ex-parte* order sustaining the various additions made by the Assessing Officer. It is the submission of the Ld. Counsel for the assessee that given an opportunity, the assessee is in a position to substantiate his case by producing the relevant details. Considering the totality of the facts of the case and in the interest of justice, we deem it proper to restore the issue to the file of the CIT(A) / NFAC with a direction to grant one last opportunity to the assessee to substantiate his case by filing the requisite details and decide the issue as per fact and law. The assessee is also hereby directed to make his submissions, if any, before the CIT(A) / NFAC on the appointed date without seeking any adjournment under any pretext, failing which the CIT(A) / NFAC is at liberty to pass appropriate order as per law. We hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

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

Order pronounced in the open Court at the time of hearing itself i.e. 4th September, 2024.

Sd/-

(VINAY BHAMORE)
JUDICIAL MEMBER

पुणे Pune; दिनांक Dated :4th September, 2024
GCVSR

Sd/-

(R. K. PANDA)
VICE PRESIDENT

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

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

आदेशानुसार/ BY ORDER,

// True Copy //

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

S.No.	Details	Date	Initials	Designation
1	Draft dictated on	04.09.2024		Sr. PS/PS
2	Draft placed before author	04.09.2024		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			