IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "B", PUNE
BEFORE SHRI R. K. PANDA, VICE PRESIDENT
AND
SHRI S.S. GODARA, JUDICIAL MEMBER

ITA No.1146/PUN/2024
Assessment Year : 2015-16

Vasudev Yashwant Abhyankar Jambhulpada, Sudhagad, Raigad – 410205	**Vs.**	ITO, Ward-4, Panvel
PAN : ACYPS1203H		
(Appellant)		**(Respondent)**

Assessee by	:	None
Department by	:	Shri Arvind Desai, Addl CIT, DR
Date of hearing	:	09-09-2024
Date of pronouncement	:	09-09-2024

O R D E R

PER R. K. PANDA, VP :

This appeal filed by the assessee is directed against the *ex-parte* order dated 21.03.2024 of the CIT(A) / NFAC relating to assessment year 2015-16.

2. None appeared on behalf of the assessee at the time of hearing. We, therefore, deem it proper to decide the issue on the basis of material available on record and after hearing the Ld. DR.

3. 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 additions of Rs.21,30,000/-, Rs.49,45,000/- and Rs.3,027/-, respectively made by the Assessing Officer in the order passed u/s 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act'), dated 28.08.2017.

4. Facts of the case, in brief, are that the assessee is an individual and engaged in the business of real estate agent and reseller of firewood and filed his return of income on 21.11.2015 declaring total income of Rs.11,50,400/-. The Assessing Officer completed the assessment u/s 143(3) of the Act on 28.08.2017 determining the total income of the assessee at Rs.82,28,430/- wherein he has made the following additions:

a) Rs.21,30,000/- u/s 56(20(vii)(b)
b) Rs.49,45,000/- u/s 43CA
c) Rs.3,027/- being interest on savings bank account.

5. Since the assessee did not respond to the notice issued by the CIT(A) / NFAC, the Ld. CIT(A) / NFAC following various decisions, dismissed the appeal for want of prosecution.

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

7. We have heard the Ld. DR and perused the orders of the Assessing Officer and Ld. CIT(A) / NFAC. It is an admitted fact that the assessee did not appear before the CIT(A) / NFAC for which he has passed the ex-parte order dismissing the appeal filed by the assessee for want of prosecution. It is not understood as to how many opportunities were granted to the assessee by the CIT(A) / NFAC since the order of the CIT(A) / NFAC is silent on the number of opportunities granted. Further, it is seen that the CIT(A) / NFAC has not followed the due procedure by passing a speaking order as per provisions of section 250(6) which reads as under:

> *"250…….*
> *(6) The order of the* **[***Joint Commissioner (Appeals) or the***]** *Commissioner (Appeals) disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reason for the decision."*

8. 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 CIT(A) / NFAC with a direction to grant one final 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 participate in the appellate proceedings 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. 9th September, 2024.

Sd/-	**Sd/-**
(S.S.GODARA)	(R. K. PANDA)
JUDICIAL MEMBER	VICE PRESIDENT

पुणे Pune; दिनांक Dated :9th September, 2024
GCVSR

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent
3. The concerned Pr.CIT, Pune
4. DR, ITAT, 'B' 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	09.09.2024		Sr. PS/PS
2	Draft placed before author	09.09.2024		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			