

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

**BEFORE SHRI R. K. PANDA, VICE PRESIDENT  
AND  
MS ASTHA CHANDRA, JUDICIAL MEMBER**

**ITA Nos.915 & 916/PUN/2024  
Assessment Year : 2017-18**

HB KJ and Advance Hb KJ & Advance 411/2, Mukund Nagar, Gultekdi, Pune – 411037	<b>Vs.</b>	ITO, Ward 5(1), Pune
<b>PAN : AAEFH4417L</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by : Ms Amrin Pathan (through virtual)  
Department by : S/Shri R P Mane &  
Ramnath P Murkunde

Date of hearing : 17-09-2024  
Date of pronouncement : 17-09-2024

**ORDER**

**PER BENCH:**

The above 2 appeals filed by the assessee are directed against the separate orders dated 22.03.2024 of the CIT(A) / NFAC, Delhi dismissing the appeals for want of prosecution.

2. While ITA No.915/PUN/2024 relates to the order of the CIT(A) / NFAC in confirming the penalty of Rs.1,50,000/- levied by the Assessing Officer u/s 271B of the Income Tax Act, 1961 (hereinafter referred to as 'the Act'), ITA No.916/PUN/2024 relates to the *ex-parte* order of the CIT(A) / NFAC in confirming the determination of income at Rs.10,51,03,706/- as against the returned income of Rs.7,38,680/- declared by the assessee.

3. The Ld. Counsel for the assessee at the outset submitted that the CIT(A) / NFAC without affording reasonable opportunity of the being heard to the assessee, has decided both the appeals for want of prosecution. He has also not decided the appeals on merit as per provisions of section 250(6) of the Act. She accordingly submitted that she has no objection if the matter is restored to the file of the CIT(A) / NFAC for fresh adjudication after giving the opportunity to the assessee.

4. The Ld. DR on the other hand while supporting the order of the CIT(A) / NFAC dismissing the appeals for want of prosecution, fairly conceded that the CIT(A) / NFAC has not decided the appeals on merit and has simply dismissed the appeals for want of prosecution.

5. We have heard the rival arguments made by both the sides and perused the orders of the Assessing Officer and the Ld. CIT(A) / NFAC. It is an admitted fact that the CIT(A) / NFAC has dismissed both the appeals for want of prosecution and he has not decided the appeals on merit as per provisions of section 250(6) of the Act which read as under:

*“250(1)....*

*(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.”*

6. Further, a perusal of the orders passed by the CIT(A) / NFAC shows that it is not clear as to how many opportunities were granted to the assessee apart from simply writing multiple opportunities. 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 more opportunity to the assessee to substantiate its case by filing the requisite details and decide the issue as per fact and law by passing a speaking order. 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.

7. In the result, both the appeals filed by the assessee are allowed for statistical purposes.

Order pronounced in the open Court at the time of hearing itself i.e. 17<sup>th</sup> September, 2024.

**Sd/-**  
(ASTHA CHANDRA)  
JUDICIAL MEMBER

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

पुणे Pune; दिनांक Dated : 17<sup>th</sup> September, 2024

GCVSR

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent
3. DR, ITAT, 'A' Bench, Pune
4. 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	17.09.2024		Sr. PS/PS
2	Draft placed before author	17.09.2024		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			