

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

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

**ITA No.1616/PUN/2024  
Assessment Year : 2017-18**

Manoj Hemchand Mundaware Subhash Road No.1, Satana, Dist. Nashik – 423301	<b>Vs.</b>	ITO, Ward 2, Malegaon
<b>PAN : AJMPM1280B</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

**SA No.5/PUN/2024  
Arising out of ITA No.1616/PUN/2024  
Assessment Year : 2017-18**

Manoj Hemchand Mundaware Subhash Road No.1, Satana, Dist. Nashik – 423301	<b>Vs.</b>	ITO, Ward 2, Malegaon
<b>PAN : AJMPM1280B</b>		
<b>(Applicant)</b>		<b>(Respondent)</b>

Assessee by : Shri Sarvesh Toshniwal  
Department by : Shri Ramnath P Murkude  
Date of hearing : 23-09-2024  
Date of pronouncement : 24-09-2024

**ORDER**

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

This appeal filed by the assessee is directed against the order dated 16.09.2023 of the CIT(A) / NFAC, relating to assessment year 2017-18.

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 action

of the Assessing Officer in making the addition of Rs.1,12,95,870/- u/s 69A of the Income Tax Act, 1961 (hereinafter referred to as 'the Act').

3. There is a delay of 320 days in filing of this appeal before the Tribunal, for which the assessee has filed a condonation application along with an affidavit explaining the reasons for such delay which is due to the ill-health of the assessee. The assessee has also filed medical certificates to this effect. After considering the contents of the condonation application filed along with the affidavit and after hearing the Ld. DR, the delay in filing of the appeal is condoned and the appeal is admitted for adjudication.

4. Facts of the case in brief, are that the assessee has not filed his return of income for the impugned assessment year. On the basis of information available on ITBA-AIMS module that the assessee has deposited huge cash in his bank account, the Assessing Officer issued notice u/s 142(1) of the Act to the assessee which was duly served on the assessee on 05.02.2018. However, the assessee neither filed his return nor responded to such notice, for which the Assessing Officer again issued notices u/s 142(1) along with questionnaire to the assessee on various dates. Since there was non-compliance to the various notices issued by the Assessing Officer, he computed the assessment u/s 144 determining the total income of the assessee at Rs.1,12,95,870/- by making the addition of the same u/s 69A of the Act being unexplained cash deposit in the bank account maintained with various banks.

5. Since the assessee did not make any submission before the CIT(A) / NFAC despite number of opportunities granted, the CIT(A) / NFAC in the *ex-parte* order passed by him, sustained the addition made by the Assessing Officer.

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

7. The Ld. Counsel for the assessee at the outset submitted that due to medical reasons and the assessee being from a small place and uneducated, could not respond to the notices issued by the Assessing Officer and the CIT(A) / NFAC. He submitted that given an opportunity, the assessee is in a position to substantiate his case by filing the requisite details before the Assessing Officer. He accordingly submitted that the matter may be restored to the file of the Assessing Officer.

8. The Ld. DR on the other hand heavily relied on the orders of the Assessing Officer and the CIT(A) / NFAC and submitted that despite a number of opportunities granted, the assessee did not bother to respond to the same. Therefore, the order of the CIT(A) / NFAC should be upheld and the grounds raised by the assessee should be dismissed.

9. We have heard the rival arguments made by both the sides, perused the orders of the Assessing Officer and the Ld. CIT(A) / NFAC and the paper book filed on behalf of the assessee. We have also considered the various decisions

cited before us. We find the Assessing Officer in the instant case made the addition of Rs.1,12,95,870/- u/s 69A of the Act on the ground that the assessee did not respond to the notices issued by him by filing the return and making submissions regarding the source of huge cash deposits in the bank accounts maintained by him. We find the CIT(A) / NFAC sustained the addition made by the Assessing Officer on the ground that the assessee did not respond to the notices issued by him. It is the submission of the Ld. Counsel for the assessee that the assessee being uneducated person is not aware of the technology and could not respond to the notices issued by the Assessing Officer for which all these unfortunate events happened. It is also his submission that given an opportunity, the assessee is in a position to substantiate his case with evidences to the satisfaction of the Assessing Officer regarding the nature and source of the cash deposits made in the bank accounts maintained by the assessee. Considering the totality of the facts of the case and in the interest of justice, we deem it proper to restore the issue back to the file of the Assessing Officer with a direction to grant one final opportunity to the assessee to substantiate his case by filing the requisite details. The Assessing Officer shall decide the issue as per fact and law after providing due opportunity of being heard to the assessee. The assessee is also hereby directed to participate in the assessment proceedings before the Assessing Officer on the appointed date without seeking any adjournment under any pretext, failing which the Assessing Officer 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.

**SA No.5/PUN/2024**

10. Since the appeal of the assessee has been restored to the file of the Assessing Officer for adjudication of the issue afresh, therefore, the Stay Application filed by the assessee becomes infructuous and the same is dismissed.

11. In the result, the appeal filed by the assessee is allowed and the Stay Application is dismissed.

Order pronounced in the open Court on 24<sup>th</sup> September, 2024.

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

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

पुणे Pune; दिनांक Dated : 24<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. 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	23.09.2024		Sr. PS/PS
2	Draft placed before author	23.09.2024		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			