



BEFORE HON'BLE SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER

AND

HON'BLE SHRI VINAY BHAMORE, JUDICIAL MEMBER

ITA No.1241/PUN/2024  
Assessment Year : 2017-18

Rajendra Vishwambhar Shete  
1320/2, C-Ward, Laxmipuri,  
Kolhapuro416002.

PAN: ACCPS9419F

.....अपीलार्थी / *Appellant*

V/s

Asstt. Commissioner of Income Tax

Circle-2, Kolhapur.

..... प्रत्यर्थी / *Respondent*

**Appearances**

Assessee by: None for the Assessee

Revenue by: Mr BS Rajpurohit ['Ld. DR']

Date of conclusive Hearing : 11/09/2024

Date of Pronouncement : 01/10/2024

**ORDER**

**PER G. D. PADMAHSHALI, AM;**

By present appeal, the assessee challenges DIN & order No. ITBA/NFAC/S/250/2022-23/1050800635(1) dt. 15/03/2023 passed u/s 250 of the Income-tax Act, 1961 ['the Act' hereinafter] by the National Faceless Appeal Centre ['Ld. CIT(A)/NFAC' hereinafter] which in turn confirmed the order of assessment passed u/s 143(3) of the Act by the Asstt. Commissioner of Income Tax Circle-2, Kolhapur ['AO' hereinafter] for assessment year 2017-18 ['AY' hereinafter];



2. This case was called twice; none appeared at the behest of the appellant, on the primary briefing from the Revenue and having regard to order-sheet entries we deem it to advance *ex-parte* u/r 24 of ITAT-Rules, 1963 and adjudicate the limited issue.

3. At the outset, after vouching sufficiency of reasons beyond undeliberate delay occurred in instituting the present appeal, in the larger interest of justice and after placing reliance on 'Vijay Vishin Meghani Vs. DCIT & Anr' reported 398 ITR 250 (Bom) and 'Collector, Land Acquisition, Anantnag and Anr. Vs Ms Katiji and Others' reported at 167 ITR 5 (SC), we deem it fit to condone the same and advanced accordingly.

4. We have heard the Ld. DR on the limited issue *ex-parte* dismissal of appeal by the first appellate authority; and subject to provisions of rule 18 of 'ITAT Rules' perused material placed on record. We note that, the assessee is an individual who filed his return of income u/s 139(1) of the Act declaring total income ₹30,73,000/- and agricultural income ₹1,00,000/- . The case of the assessee was selected for scrutiny to verify the limited issue of 'increase in capital account.' During the year under consideration amongst the other amount credited to capital account, the assessee's



explanation towards (a) agricultural income of ₹1,60,000/- earned and (b) ₹7,00,000/- gift received from mother were turned down and 50% of such agricultural income u/s 56 disallowed and entire amount of gift u/s 68 were added to income vide assessment order dt. 29/11/2019 framed u/s 143(3) of the Act.

5. Aggrieved assessee instituted an appeal against such assessment before Ld. NFAC on 22/12/2019 wherein the first appellate authority provided as many as seven opportunities of hearing to the assessee right from March, 2021 till February, 2023, most of which fell during the subsistence of COVID-19 pandemic hence unattended, which resulted into *ex-parte* dismissal of appeal by the Ld. NFAC.

6. However, the affiliate dt. 18/05/2024 executed & filed by the assessee explaining the reasons of delay occurred in instituting the present appeal and reasons behind his non-compliance before first appellate authority capable of suggesting that such non-compliance was accidental & undeliberate. After vouching the reasons behind such accidental & undeliberate non-compliance, in the larger interest of justice we are of the view that the assessee for sufficient reasons prevented from representing himself before Ld. NFAC.



7. Relying on Hon'ble High court of Patna judgement in 'St. Paul's Anglo Indian Education Society' (2003) 262 ITR 377 (Pat)', we are mindful to hold that the appellant assessee was deprived of reasonable opportunity and time to produce all relevant documents to substantiate his claims therefore any adjudication without such evidential documents would be violative of principle of natural justice and rendered itself irregular, thus deserving to be set-aside. In the event and in view of the aforestated discussion we deem it proper to accord one more opportunity to the assessee to place evidential material before the Ld. NFAC. In view hereof, without commenting on merits, we set-aside the impugned order and remit the matters back to the file of Ld. NFAC with a direction to adjudicate the subject matter a fresh in accordance with law after providing three effective opportunities to the appellant assessee.

**8. The appeal in result is ALLOWED FOR STATISTCIAL PURPOSES.**

U/r 34 of ITAT Rules, order pronounced in open court on this Tuesday 01st day of October, 2024.

-S/d-

**VINAY BHAMORE**  
**JUDICIAL MEMBER**

पुणे / PUNE; दिनांक / Dated : 01st day of October, 2024.

**आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :**

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|--------------------------------|---------------------------------|
| 1.अपीलार्थी / The Appellant.   | 2. प्रत्यर्थी / The Respondent. |
| 4. The CIT-Concerned(MH-India) | 5. DR, ITAT, Bench 'SMC', Pune  |

-S/d-

**G. D. PADMAHSHALI**  
**ACCOUNTANT MEMBER**

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|---------------------------|
| 3. The Pr.CIT Concerned.  |
| 6.गार्डफाइल / Guard File. |

आदेशानुसार / By Order  
वरिष्ठनिजीसचिव / Sr. Private Secretary  
आयकरअपीलीयन्यायाधिकरण, पुणे / ITAT, Pune.