



**IN THE INCOME TAX APPELLATE TRIBUNAL, 'SMC' BENCH PUNE**  
**BEFORE HON'BLE SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER**  
**AND**  
**HON'BLE SHRI VINAY BHAMORE, JUDICIAL MEMBER**

**ITA No. 1470/PUN/2024**  
**Assessment Year : 2014-2015**

Shrinivas Vijaykumar Chidrewar

A-38, S.No-55, H.No-1,

Sadbhav Co-op. Hsg. Society,

Kothrud, Pune-411029

PAN: AHSPC3607Q.

..... **Appellant**

**V/s**

The Income Tax Officer,

Ward-3(3), Pune.

..... **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;**

This appeal agitates DIN & Orders ITBA/NFAC/S/250/2024-205/1065259200(1) dt. 30/05/2024 passed by the first appellate authority ['Ld. NFAC/ CIT(A)' hereinafter] u/s 250 of the Income-tax Act, 1961 ['the Act' hereinafter] which in turn confirms the *ex-parte* order of assessment passed u/s 147 r.w.s. 144 of the Act by the National e-Asstt Centre, Delhi ['Ld. AO' hereinafter] for assessment year 2014-15 ['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. Briefly stated facts of the cases are that, the assessee is an individual who filed his return of income on 20/12/2014 declaring total income of ₹4,94,303/-. A search u/s 132 of the Act was carried on 'M/s Sri Renuka Mata Multi-State Co-Op. Credit Society Ltd' ['Society' hereinafter] with whom the assessee was maintaining saving account wherein he deposited cash to the tune ₹32,16,405/- during the year under consideration. Upon the receipt of aforesaid information the assessee's case after recording reasons & obtaining approval was reopened for assessment u/s 147 of the Act. Various notices including a show cause notice issued during the course of re-opened assessment remained unattended by the assessee. This effective non-representation led to failure on the part of the assessee to explain nature & source of such cash deposits, owing to which the Ld. AO treated same as unexplained money u/s 69A and added the same to total income and accordingly framed the assessment u/s 147 r.w.s. 144 of the Act.



4. The assessee assailed the former addition in first appeal unsuccessfully. Aggrieved assessee challenged the impugned action of Ld. NFAC on two argumentative grounds, hence in view of rule 8 of ITAT-Rules 1963 reproduction thereof dispensed with.

5. Without touching the ground & the merits of the case, we have heard the Ld. DR on the limited issue of *ex-parte* dismissal of appeal by the Ld. NFAC and subject to rule 18 (supra) perused material placed on record.

6. We observed that, neither during the course of re-opened assessment before the Ld. AO nor during the course of first appellate proceeding before the Ld. NFAC the appellant assessee could furnish / produce any convincing documents in support of his claim and in explaining true nature and source of cash balances available with him prior to depositing the same in the account maintained with the society. The absence of cogent evidences & effective non-representation led to *ex-parte* assessment and since assessee was indifferent in his conduct in first appellate proceedings, the Ld. NFAC reiterating the findings of the Ld. AO countenanced the addition made in best judgment assessment



7. From para 5.2 of the impugned order, we however noted that, during the course of first appellate proceedings vide three notices 03/05/2024, 09/05/2024 & 14/05/2024 the Ld. NFAC called upon the assessee to comply & produce requisite details in less than seven days therefrom. Ostensibly, these opportunities of hearing granting the appellant assessee less than a reasonable period of fifteen days in each case in our considered view clearly suggest these were only a paper opportunity granted to create audit trail and not with an intent to seek real compliance. This period of seven days allowed to appellant to comply in our considered opinion is not a reasonable period, because the opportunity of being heard should be real, reasonable and effective, the same should not be for namesake, it should not be a mere paper opportunity. This is so held in '*CIT v. Panna Devi Saraogi*' [1970] 78 ITR 728 (Cal.). In the case of '*Smt. Ritu Devi v. CIT*' [2004] 141 Taxman 559 (Mad.), time of just few days was given to the assessee to furnish reply which was also held as denial of real opportunity. As held in '*E. Vittal v. Appropriate Authority*' [1996] 221 ITR 760 (AP), where a decision is based upon a document in a proceeding, copy of the same should be provided to the affected party according reasonable period to negate,



otherwise, it would violate the principles of natural justice as the opportunity of being heard should be an effective opportunity and not an empty formality, as the denial of reasonable opportunity renders the action/order void.

8. In view of the aforestated discussion, we are of considered view that, the action of the Ld. NFAC is suffered from sufficiency of reasonable opportunity to the appellant to adduce necessary evidential material in support of his claim and to represent effectively *vis-à-vis* to comply with the requirements sought. It shall be worthy to underlined that the opportunity of being heard should be real, reasonable and effective and same should not be empty formalities, it should not be a paper opportunity, the doctrine of natural justice is a facet of fair play in action and no person shall be saddled with a liability without being heard.

9. 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 impugned adjudication is unjustified as the assessee was deprived of reasonable opportunity and time to produce all relevant documents to substantiate his claims as made in the return of income filed.



10. In the present case, the Ld. NFAC came to dismiss the appeal of the assessee ex-parte violating the principle of natural justice, thus suffered therefrom. In the event we deem in all the fairness and in the larger interest of justice necessary to accord one more real opportunity to the appellant assessee to comply with notices and contest its case on merits.

11. In view of this, without offering any comments on the merits of the case, we deem it fit to set-aside the impugned order and remit the file back to the Ld. NFAC with a direction deal therewith *de-novo* and pass a speaking order in terms of section 250(6) of the Act preferable in three effective opportunities of hearing to the assessee. Ordered accordingly.

**12. In result, the appeal is ALLOWED FOR STATISTICAL PURPOSES.**

In terms of rule 34 of ITAT Rules, the order pronounced in the open court on this Tuesday 01<sup>st</sup> day of October, 2024.

**-S/d-**

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

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

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

1. अपीलार्थी / The Appellant.

4. The CIT(A)/NFAC Concerned.

2. प्रत्यर्थी / The Respondent.

5. DR, ITAT, 'SMC' Bench, Pune

**-S/d-**

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

3. The Pr. CIT Concerned.

6. गार्डफाइल / Guard File.

आदेशानुसार / By Order

वरिष्ठ निजी सचिव / Sr. Private Secretary

आयकर अपीलार्थी न्यायाधिकरण, पुणे / ITAT, Pune.