

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

**BEFORE SHRI R. K. PANDA, VICE PRESIDENT  
AND  
SHRI VINAY BHAMORE, JUDICIAL MEMBER**

**ITA No.1296/PUN/2024  
Assessment Year : 2012-13**

Shri Panchmukhi Ganesh Nagari Sah Patsanstha Ltd. Ganeshpeth, A/p – VITA, Tal-Khanapur, Dist. Sangli – 415311	<b>Vs.</b>	ITO, Ward 2, Sangli
<b>PAN: AAFAS1387N</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by : Shri Umeshkumar Madhukar Mali  
Department by : Shri Arvind Desai, Addl CIT DR  
Date of hearing : 08-10-2024  
Date of pronouncement : 08-10-2024

**ORDER**

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

This appeal filed by the assessee is directed against the *ex-parte* order dated 16.02.2024 of the CIT(A) / NFAC, Delhi relating to assessment year 2012-13 confirming the addition of Rs.62,08,000/- made by the Assessing Officer u/s 68 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act').

2. There is a delay of 50 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. 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.

3. Facts of the case, in brief, are that on the basis of information available that the assessee has made cash deposits of Rs.62,08,000/- in the bank account maintained with the Saraswat Co-operative Bank Ltd., Branch-Vita during the financial year 2011-12 relevant to assessment year 2012-13, the case of the assessee was reopened u/s 147 of the Act and accordingly notice u/s 148 of the Act was issued and served on the assessee. However, no return was filed in response to the same. Statutory notice u/s 142(1) was also issued and served on the assessee. However, there was no response from the side of the assessee for which, the Assessing Officer completed the assessment u/s 144 of the Act by making addition of Rs.62,08,000/- u/s 68 of the Act.

4. Since the assessee did not respond to the notices issued by the CIT(A) / NFAC, the CIT(A) / NFAC in the *ex-parte* order passed by him sustained the addition made by the Assessing Officer.

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

6. The Ld. Counsel for the assessee submitted that the notices were sent to the e-mail ID of the employee who was not well conversant with the technology and

could not see his e-mail, for which all the notices remained un-complied with. He submitted that in the meantime the concerned employee has left the organization. He submitted that in the interest of justice, the assessee should be given one opportunity to substantiate his case by filing the relevant details before the Assessing Officer or the CIT(A) / NFAC, as the case may be, by producing cogent evidence to substantiate the source and nature of such cash deposits.

7. The Ld. DR on the other hand heavily relied on the orders of the Assessing Officer and the CIT(A) / NFAC. He submitted that due to persistent non-compliance by the assessee to the statutory notices issued by the Assessing Officer and the CIT(A) / NFAC, such addition has been made.

8. We have heard the rival arguments made by both the sides and perused the orders of the Assessing Officer and Ld. CIT(A) / NFAC. It is an admitted fact that due to non-compliance to the statutory notices issued by the Assessing Officer, he passed the order u/s 144 r.w.s. 147 of the Act by making the addition of Rs.62,08,000/- to the total income of the assessee u/s 68 of the Act being the unexplained cash credit. We find the Ld. CIT(A) / NFAC sustained the addition made by the Assessing Officer due to the non-compliance to the statutory notices issued by his office. It is the submission of the Ld. Counsel for the assessee that since the notices received in the e-mail ID of the employee, who was not well conversant with the technology, the notices could not be seen and therefore, nobody could attend before the Assessing Officer or the CIT(A) / NFAC. It is also

his submission that given an opportunity, the assessee is in a position to substantiate his case before the lower authorities regarding the nature and source of such cash deposits by producing the relevant details. 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 Assessing Officer with a direction to grant one more opportunity to the assessee to substantiate his case by filing the necessary evidence to the satisfaction of the Assessing Officer explaining the nature and source of such cash deposits. The Assessing Officer shall decide the issue as per fact and law after giving due opportunity of being heard to the assessee. The assessee is also hereby directed to appear before the Assessing Officer on the appointed date and file the requisite details 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.

9. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 8<sup>th</sup> October, 2024.

**Sd/-**

(VINAY BHAMORE)  
JUDICIAL MEMBER

पुणे Pune; दिनांक Dated : 8<sup>th</sup> October, 2024

GCVSR

**Sd/-**

(R. K. PANDA)  
VICE PRESIDENT

**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, '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	08.10.2024		Sr. PS/PS
2	Draft placed before author	08.10.2024		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			