



BEFORE HON'BLE SMT. ASTHA CHANDRA JUDICIAL MEMBER

AND

SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER

ITA No. 1590 to 1592/PUN/2024

Assessment Year : 2014-15 to 2016-17

Rameshwar Baburao Bharad

Nandkheda, Parbhani,

Maharashtra-431401

PAN: AYEPPB9569R.

..... *Appellant*

V/s

The Income Tax Officer,

Ward, Hingoli.

..... *Respondent*

Appearances

Assessee by : Mr Shubham Rathi ['Ld. AR']

Revenue by : Mr Arvind Desai ['Ld. DR']

Date of conclusive Hearing : 15/10/2024

Date of Pronouncement : 15/10/2024

ORDER

PER G. D. PADMAHSHALI, AM;

This bunch of three appeals of the assessee impugned separate DIN & Order No. ITBA/NFAC/S/250/2024-25/1065633664(1), 1065635770(1) & 1065634370(1) all dt. 13/06/2024 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 arisen out of separate orders of assessment passed u/s 147 r.w.s. 144B of the Act by the National e-Asstt Centre, Delhi ['Ld. AO' hereinafter] for assessment year 2014-15 to 2016-17 ['AY' hereinafter];



2. Since facts involved in this bunch of appeals and issue dealt therein are common & identical, therefore on the request of rival parties these appeals for the sake of brevity & convenience are heard together for being disposed-off by common & consolidated order.

3. **Briefly stated common facts of these cases are that;** the appellant assessee is an individual who for all three years under consideration was identified as Non-Filer by the Revenue. An information that, the assessee made huge cash deposits in his account maintained with '*Shri Renuka Mata Multi-State Urban Co-operative. Credit Society*' was received, pursuant to which the case of the assessee for three years under consideration, after recording the reasons & obtaining prior approval from the competent authority was re-opened u/s 148 of the Act. In the event of failure on the part of the assessee to explain nature and source of such cash deposited by him, the Ld. AO treated the same as unexplained income of the assessee and brought to tax u/s 69 of the Act vide separate assessment order dt. 27/05/2023, 27/05/2023 & 09/05/2023 framed u/s 147 r.w.s. 144B of the Act for the assessment year 2014-15 to 2016-17 respectively.



4. By separate appeals instituted on 29/06/2023, the assessee challenged the aforestated additions & assessments before first appellate authority. Vide separate first appellate orders dt. 13/06/2024 the Ld. NFAC dismissed all three appeals of the assessee *in limine* as barred by limitation.

5. Aggrieved by the aforestated dismissal the assessee came in present bunch of appeals with as many as six common & argumentative grounds which beside merits collectively challenges the action of Ld. first appellate Authorities on violation of principle of natural justice and seeks to remand these matters for *de-novo* adjudication on merits.

6. Without touching merits of these cases, we have heard the rival parties common submission on the limited issue of dismissal *in limine* by the Ld. NFAC and subject to rule 18 of ITAT-Rules 1963 perused material placed on record, considered the facts in the light of settled legal position.

7. We noted that, against the orders of assessment for AY 2014-15 passed on 27/05/2023, for AY 2015-16 which was passed on 29/05/2023 & for AY 2016-17 passed on 09/05/2023 the



appellant assessee filed three separate appeals before the Ld. NFAC on 29/06/2023. These appeals were admittedly filed with a small delay of 3days, 1day & 21days. Of these first two appeals were admittedly filed without computing delay & accompanying therewith a petition for condonation of delay stating therein sufficient reasons therefore. Insofar as the appeal for the AY 2016-17 is concerned though the delay in filing was mentioned in Form No 35, the reasons behind such delay remained to be explained to the satisfaction of the Ld. NFAC. In the event, the Ld. NFAC rejected to entertain all three appeals on a technical ground of assessee's failure to mention such delays in appeal Memo and further failure to prove the sufficient cause beyond such delay.

8. In the course of hearing, the Ld. AR solidified that the appellant did not identify & mention exact delay in Form No 35 and also failed to placing cogent material in support thereof. Adverting to medical reports / prescriptions placed on records, it was satisfactorily shown to us that, the appellant was under medical treatment which delayed filing of appeals before the first appellate authority and such delays were not only undeliberate but accidental & bonafied, which Revenue could hardly displace.



9. The appellate authority or forum in our considered view is created by the statute to rest the dispute and not to accelerate up to higher forum. Therefore having regard to present facts and circumstances, placing reliance on recent judgement of Hon'ble Supreme Court rendered in '*Raheem Shah & ANR Vs Govind Singh & Ors*' [CIVIL APPEAL NO.4628 OF 2023], we are heedful to state that, while dealing with tax litigation, the Ld. NFAC being a quasi-judicial authority was expected to adopt justice oriented approach rather resorting to iron-cast technical one wherein the Ld. NFAC came to dismiss appeals *in limine* on a hyper-technical ground of that the delay was not mentioned in Form No 35.

10. After vouching sufficiency of reasons, we are satisfied that the appellant was for sufficient cause prevented from filing first appeals against the assessment orders. In views thereof the undeliberate delays of 3, 1 & 21 days respectively occurred in instituting three separate appeals against respective assessment orders before the Ld. NFAC, we 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), in the larger interest of



judice we condone the same as; 'none should be deprived of an adjudication on merits unless it is found that the litigant deliberately delayed the filing of appeal.'

11. In view hereof, without offering any comments on merits of these cases, we set-aside the impugned orders and remit these files to the Ld. NFAC with a direction to deal therewith on merits *de-novo* in accordance with applicable law and pass speaking orders in terms of section 250(6) of the Act. Needless to state that the Ld. NFAC shall accord three effective opportunities in each case separately to the assessee to explain his claim with such evidential material as may be necessary. The ground number 1 & 2 are accordingly stands partly allowed for statistical purposes, consequently all other grounds unnecessitated any adjudication.

12. In result, these three appeals are ALLOWED FOR STATISTICAL PURPOSES.

In terms of rule 34 of ITAT Rules, the order pronounced in the open court on this Tuesday, 15th day of October, 2024

-S/d-

**ASTHA CHANDRA
JUDICIAL MEMBER**

पुणे / PUNE ; दिनांक / Dated : 15th day of October, 2024

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

1.अपीलार्थी / The Appellant.

2. प्रत्यर्थी / The Respondent.

4. The CIT(A)/NFAC Concerned.

5. DR, ITAT, 'B' 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.