



।आयकर अपीलीय अधिकरण "ए" न्यायपीठ पुणेमें।
IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCHES "A" :: PUNE

BEFORE MS.ASTHA CHANDRA, JUDICIAL
MEMBER, AND
DR.DIPAK P. RIPOTE, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA Nos.1403 to 1407/PUN/2024

निर्धारण वर्ष / Assessment Years: 2013-14 to 2017-18

Mahendra Prakash Bora, 1 Market Yard, Beed Road, Jamkhed, Ahmednagar – 413201. PAN: AMPPB9059D	V s	The Income Tax Officer, Ward-2, Ahmednagar.
Appellant / Assessee		Respondent / Revenue

Assessee by	Shri Suhas P Bora – AR
Revenue by	Shri Ramnath P Murkude – DR
Date of hearing	24/10/2024
Date of pronouncement	29/10/2024

आदेश/ ORDER

PER BENCH :

This bunch of five appeals filed by the Assessee against the separate orders of Id.Commissioner of Income Tax(Appeal)[NFAC], under section 250 of the Income Tax Act, 1961 for A.Y.2013-14, A.Y.2014-15 & 2017-18, dated 24.05.2024 and A.Y.2015-16 & A.Y.2016-17 dated 25.04.2024 respectively. Since the issue involved is common and facts are identical, all the five appeals were heard together and decided by a consolidated



order. We take A.Y.2013-14 as lead case. The grounds of appeal raised by the assessee for A.Y.2013-14 are as under :

“1. The learned CIT(A) has erred in dismissing appellant’s appeal and confirming the action of the AO of making addition of Rs.2,12,83,970/- under various sections which are tabulated below without providing sufficient and proper opportunity to the appellant and without verifying whether the notices were served to the appellant or not:

Sr.No.	Nature of Addition	Amount
1	Addition on account of Cash Deposits U/Sec.69A of the Act	Rs.2,12,83,970/-

2. The learned CIT(A) failed to appreciate that the various notices fixed for hearing were not received by the appellant.

3. The learned CIT(A) failed to appreciate that he ought to have verified whether proper notice has been served or not, before passing ex-parte order. Therefore, the appellant urges that the Order passed by the CIT(A), be set-aside.

4. The learned CIT(A) has further erred in dismissing appellant’s appeal on merits in a summary manner only on the basis of observations of the AO given in the assessment order and thereby passing ex-parte order.

5. The appellant craves leave to add, alter, amend, or delete any of the above grounds of appeal.”

Findings & Analysis (ITA No.1403/PUN/2024) :

2. In this case, ld.AR filed an affidavit of the assessee stating as under :

“4. That the Hearing notices U/Sec. 250 of the Act issued by CIT(A) National Faceless Appeal Center were sent to the mail id-mbora009@gmail.com and not to the e-mail address mentioned on Form 35 as well as mentioned on the e-portal i.e., kapale233@gmail.com. I was unaware of these notices and accordingly, I was not able to submit any response to the said notices.

5. That I came to know about the completion of the said appellate



proceeding's only on receipt of the demand recovery notice and accordingly the same was downloaded from the portal on 20.06.2024 Thereafter, we immediately took the steps to file an appeal before ITAT and filed the appeal on 24.06.2024 i.e., within the prescribed time limits.”

2.1 Ld.AR for the assessee filed screenshot downloaded from the Income Tax Portal to demonstrate that notice under section 250 for A.Y.2013-14 was send by Department at mbora009@gmail.com and not at the Email Address which was mentioned in Form No.35. Form No.35 is the Form of appeal filed by assessee while filing an appeal before the Id.CIT(A). Ld.Departmental Representative for the Revenue has not disputed the facts mentioned in the Affidavit and also facts mentioned by Id.AR.

2.2 Thus, it is apparently clear that Id.CIT(A) has sent the notices on a wrong Email Id. Therefore, these notices were not received by the assessee, hence assessee could not file reply. Opportunity of hearing is the most important aspect in any judicial and quasi-judicial proceedings as explained in the legal maxim “*audi alteram partem*”. The Hon’ble Supreme Court in the case of State Of Kerala Vs. K.T. Shaduli Yusuff Etc on 15 March, 1977; 1977 SCC (TAX) 347, observed as under :

Quote, “Now, the law is well settled that tax authorities entrusted with the power to make assessment of tax discharge quasi- judicial



functions and they are bound to observe principles of natural justice in reaching their conclusions.....

One of the rules which constitutes a part of the principles of natural justice is the rule of audi alterem parterm which requires that no man should be condemned unheard. ” Unquote.

3. In this case, assessee had not had the opportunity to explain his case before the ld.CIT(A). Ld.CIT(A) has passed the order in absence of reply of the assessee, which is evident from paragraph 4.1 of the ld.CIT(A)’s order. In these facts and circumstances of the case, we deem it appropriate to set-aside the case to ld.CIT(A) for denovo adjudication. Ld.CIT(A) shall provide opportunity of hearing to the assessee. Assessee shall file all necessary documents before the ld.CIT(A). Accordingly, grounds of appeal raised by the assessee are allowed for statistical purpose.

4. In the result, appeal of the assessee in ITA No.1403/PUN/2024 is allowed for statistical purpose.

ITA Nos.1404 to 1407/PUN/2024 (04 Appeals)

5. Since we have decided the above appeal of the assessee i.e.1403/PUN/2024 “lead case” and the facts and issue involved is same of all these four appeals are common, the decision of the same shall apply *mutatis-mutandis* to these four appeals also.



Accordingly, grounds of appeal raised in all these four appeals i.e.ITA Nos.1404 to 1407/PUN/2024 are allowed for statistical purpose.

5.1 In the result, four appeals of the assessee in ITA Nos.1404 to 1407/PUN/2024 are allowed for statistical purpose.

6. To sum up, all five appeals of the assessee are allowed for statistical purpose.

Order pronounced in the open Court on 29th October, 2024.

Sd/-
(MS.ASTHA CHANDRA)
JUDICIAL MEMBER

Sd/-
(DR. DIPAK P. RIPOTE)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 29th Oct, 2024/ SGR*

आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.
5. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच, पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे/ITAT, Pune.