

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“A” BENCH, PUNE**

**BEFORE SHRI R.K. PANDA, VICE PRESIDENT  
AND  
MS. ASTHA CHANDRA, JUDICIAL MEMBER**

**आयकर अपील सं. / ITA Nos.1451 to 1456/PUN/2024**

**Assessment Years : 2011-12, 2000-01, 2012-13, 2018-19, 2013-14 and  
2017-18**

Kumbhi Kasari Sahakari Sakhar Karkhana Limited, Kuditre Gat No.279, At Post Kuditre, Koditre, Dist. Kolhapur – 416204 Maharashtra PAN : AAAAK0363M	<b>बनाम / V/s.</b>	Dy.CIT, Circle-1, Kolhapur
.....अपीलार्थी / Appellant		.....प्रत्यर्थी / Respondent

Assessee by : Shri Pramod S. Shingte  
Revenue by : Shri Amol Khairnar

सुनवाई की तारीख / Date of Hearing : 12.12.2024

घोषणा की तारीख / Date of Pronouncement : 12.12.2024

**आदेश / ORDER**

**PER R.K. PANDA, VICE PRESIDENT :**

The above six appeals filed by the assessee are directed against the *exparte* orders of the CIT(A)/National Faceless Appeal Centre, Delhi [in short CIT(A)/NFAC]. For the sake of convenience, all the

above six appeals were heard together and are being disposed of by this common order.

2. In ITA No.1452/PUN/2024, the assessee has challenged the *exparte* order of the CIT(A)/NFAC in confirming the penalty of Rs.7,18,16,466/- u/s.271(1)(c) of the Act. In the remaining appeals, the assessee has challenged the *exparte* orders of the CIT(A)/NFAC in confirming the disallowance of Sugarcane purchase price and addition on account of sale of Sugar to Members at Concessional rates, the details of which are as under :

ITA No.	Asst. year	CIT(A)/NFAC order date	Issue
1451/PUN/2024	2011-12	17.10.2023	Disallowance of Sugarcane purchase price – Rs.38,56,25,096/- Sale of Sugar to Members at Concessional rate – Rs.5,45,01,790/-
1452/PUN/2024	2000-01	14.12.2023	Penalty u/s.271(1)(c) – Rs.7,18,16,466/-
1453/PUN/2024	2012-13	17.10.2023	Disallowance of sugarcane purchase price – Rs.18,15,70,365/- Sale of Sugar to Members at Concessional Rate – Rs.5,71,40,382/-
1454/PUN/2024	2018-19	18.10.2023	Disallowance of Sugarcane purchase price – Rs.26,01,99,664/- Sale of sugar to Members at Concessional rate – Rs.5,56,45,277/-
1455/PUN/2024	2013-14	17.10.2023	Disallowance of Sugarcane purchase price – Rs.15,90,84,302/- Sale of sugar to Members at

			Concessional rate – Rs.5,66,51,400/-
1456/PUN/2024	2017-18	31.12.2019	Disallowance of Sugarcane purchase price – Rs.23,07,77,150/- Sale of sugar to Members at Concessional rate – Rs.5,57,88,451/-

3. First we take up ITA No.1451/PUN/2024 as the lead case. Facts of the case, in brief, are that the assessee is a Cooperative Society registered under the Maharashtra Cooperative Societies Act and engaged in the business of manufacture of Sugar from Sugarcane, production of spirit and ENA etc., from the distillery, production of power from co-generation plant and running a petrol pump. The Assessing Officer in the assessment order passed u/s.143(3) made addition of Rs.38,56,25,096/- on account of disallowance of excess cane sugar price paid over and above the Fair and Remunerative price (FRP). Similarly, he also made addition of Rs.6,25,49,532/- on account of sale of sugar at Concessional rate to its Members.

3.1 Since the assessee did not appear before the CIT(A)/NFAC despite number of opportunities granted, the Id.CIT(A)/NFAC in the *exparte* order passed by him dismissed the appeal filed by the assessee for non-prosecution.

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

5. The Id. Counsel for the assessee at the outset submitted that inadvertently, the assessee could not appear before the CIT(A)/NFAC. He submitted that the issues decided against the assessee are now covered by the decision of the Hon'ble Supreme Court and various High Courts. However, the Id.CIT(A)/NFAC has not decided the issue on merit as per the provisions of section 250(6) of the Income-tax Act, 1961 and dismissed the appeal for non-prosecution. The Id. Counsel for the assessee submitted that in the interest of justice the assessee should be given one final opportunity to substantiate its case before the CIT(A)/NFAC.

6. The Id. Departmental Representative on the other hand, strongly objected to the above arguments of the Id. Counsel for the assessee. He submitted that despite number of opportunities granted by the CIT(A)/NFAC the assessee did not make any submission for which the Id.CIT(A)/NFAC was constrained to pass the *ex parte* order.

7. We have heard the rival arguments made by both the sides and perused the record. It is an admitted fact that despite three opportunities granted by the Id.CIT(A)/NFAC the assessee did not make any submission for which the Id.CIT(A)/NFAC was constrained to pass the *ex parte* order. Further, it is also an admitted fact that the Id.CIT(A)/NFAC has dismissed the appeal for want of

prosecution and has not decided the issue on merit. As per the provisions of section 250(6) of the Act, the order of the CIT(A) disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reason for the decision. However, the Id.CIT(A)/NFAC has not followed the provisions of section 250(6) of the I.T. Act. It is the submission of the Id. Counsel for the assessee that given an opportunity the assessee is in a position to substantiate its case by filing the requisite 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 CIT(A)/NFAC with a direction to grant one final opportunity to the assessee to substantiate its case by filing the requisite details and decide the issue as per fact and law. The assessee is also hereby directed to make its submission on the date of hearing without seeking any adjourning under any pretext failing which the Id.CIT(A)/NFAC is at liberty to pass appropriate order as per law. We hold and direct accordingly. Grounds raised by the assessee are accordingly allowed for statistical purposes.

8. Identical grounds have been raised by the assessee in ITA Nos. 1453 to 1456/PUN/2024. Following similar reasoning, the grounds raised by the assessee in all these appeals are also allowed for statistical purposes.

9. So far as ITA No.1452/PUN/2024 is concerned, the same relates to the order of the CIT(A)/NFAC in confirming the penalty of Rs.7,18,16,466/- levied by the AO u/s.271(1)(c) of the Act. Here also, the Id.CIT(A)/NFAC has dismissed the appeal filed by the assessee for want of prosecution but has not decided the appeal on merit. Following our observations in the preceding paragraphs, we restore the issue to the file of CIT(A)/NFAC with a direction to adjudicate the issue afresh and in accordance with law after giving due opportunity of being heard to the assessee. We hold and direct accordingly. Grounds raised by the assessee are accordingly allowed for statistical purposes.

10. In the result, all the above six appeals filed by the assessee are allowed for statistical purposed.

Pronounced in the Open Court at the time of hearing itself, i.e. on 12.12.2024.

Sd/-  
**ASTHA CHANDRA**  
**JUDICIAL MEMBER**

Sd/-  
**R.K. PANDA**  
**VICE PRESIDENT**

पुणे / Pune; दिनांक / Dated : 12<sup>th</sup> December, 2024

Satish

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The concerned Pr.CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "A" /  
DR 'A', ITAT, Pune;
5. गार्ड फाईल / Guard file.

आदेशानुसार / BY ORDER,

//सत्यापित प्रति// True Copy//

वरिष्ठ निजी सचिव / Sr. Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune