

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "A", PUNE

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

आयकर अपील सं. / ITA No.1485/PUN/2024
निर्धारण वर्ष / Assessment Year : 2020-21

Maharashtra Gramin Bank, Plot No.42, Gut No.33 (Part) Village- Golwadi, Growth Centre, Waluj Mahanagar IV, CIDCO, Aurangabad- 431010. PAN : AACAM8494M	Vs.	CIT(A), Delhi.
Appellant		Respondent

Assessee by : Shri Ramesh Magar
Revenue by : Shri Uma Shankar Prasad
Date of hearing : 21.11.2024
Date of pronouncement : 20.12.2024

आदेश / ORDER

PER VINAY BHAMORE, JM:

This appeal filed by the assessee is directed against the order dated 14.05.2024 passed by Ld. CIT(A)/NFAC for the assessment year 2020-21.

2. The appellant has raised the following grounds of appeal :-

"1 *Erroneous Addition of Rs. 87,73,904/- I. The Ld. Assessing Officer and the Commissioner (Appeals) erred in making and upholding the addition of Rs. 87,73,904/- without considering the appellant's explanation that this amount is already included under the head Income from Business or Profession. The addition is based solely on the TDS schedule without verifying the classification of income in the ITR, which was incorrectly classified due to a software error. In the complex labyrinth of income tax law, the principle of finality serves as a cornerstone,*

ensuring that the same income is not subjected to tax more than once.

- 2 *Violation of Principles of Natural Justice 2. The appellant did not receive the notices mentioned by the AO, which deprived the appellant of an opportunity to present its case fully. The Commissioner (Appeals) did not consider the appellant's submission that the software error led to the misclassification of income, and thus did not provide a fair hearing.*
- 3 *Compliance and Intent 3. The appellant has a history of compliance with tax regulations and has always filed its returns accurately and on time. The error in classification was unintentional and occurred due to reliance on software, with no intention to evade taxes or conceal income.*
- 4 *Request for Deletion 4. The appellant prays for the deletion of the addition of Rs. 87,73,904/- made in the assessment order under section 143(3) read with section 144B of the Income Tax Act, 1961.*
- 5 *5. The appellant reserves the right to add, amend or alter any of the grounds of appeal before or at the time of hearing.*
6. *6. In the light of the facts and circumstances mentioned above, the appellant respectfully requests the Honorable Income Tax appellate Tribunal (ITAT) Pune to – Set aside the order of the Commissioner of Income Tax (Appeals) and delete the addition of Rs.87,73,904/- made to the appellant's income – Grant any other relief that the Honorable Tribunal may deem fit.”*

3. Facts of the case, in brief, are, that the assessee is a Regional Rural Bank, has e-filed its return of income on 11.02.2022 declaring total income of Rs.53,22,08,510/-. The return of income was selected for scrutiny under CASS. During the course of assessment proceedings, it was found by the Assessing Officer that in TDS schedule the income from other sources was appearing as Rs.1,41,38,144/-, whereas in the income tax return the same was declared at Rs.53,64,240/-, accordingly he presumed that income to the tune of Rs.87,73,904/- [1,41,38,144 (-) 53,64,240] is not

disclosed by the assessee. In this regard, the Assessing Officer issued notice dated 15.09.2022 but the assessee did not respond and the Assessing Officer completed the assessment by determining the total income at Rs.54,09,82,414/- as against the income returned by the assessee at Rs.53,22,08,510/-. The above assessed income includes Rs.87,73,904/- as additional income determined by the Assessing Officer.

4. In first appeal, Ld. CIT(A)/NFAC found that the assessee has filed some response to the appeal hearing notice but the attachment as claimed were missing from the reply. Accordingly, another notice was issued by Ld. CIT(A)/NFAC to the assessee and since the assessee remained absent, Ld. CIT(A)/NFAC dismissed the appeal filed by the assessee. It is this order against which the assessee is in appeal before this Tribunal.

5. Ld. AR appearing from the side of the assessee submitted before us that the *ex-parte* order passed by Ld. CIT(A)/NFAC is not justified. Ld. Counsel of the assessee further submitted that the compliance against the first notice issued by Ld. CIT(A)/NFAC was made by the assessee. Since the compliance & attachments were not visible at the office of Ld. CIT(A)/NFAC, another notice mentioning the date of hearing as 21.05.2024 was issued to the assessee and the assessee was preparing to submit the reply before

Ld. CIT(A)/NFAC. But in the mean-time on 14.05.2024, Ld. CIT(A)/NFAC decided the appeal *ex-parte* i.e. in the absence of assessee. It was therefore prayed before the Bench to set-aside the *ex-parte* order passed by Ld. CIT(A)/NFAC & to provide one opportunity to the assessee to produce relevant documents/evidences in support of grounds of appeal.

6. Ld. DR appearing from the side of the Revenue supported the orders passed by the subordinate authorities and requested to confirm the same.

7. We have heard Ld. Counsels from both the sides and perused the material available on record including paper book furnished by the assessee. We find that admittedly when the assessee furnished reply before Ld. CIT(A)/NFAC, due to technical glitches the attachments could not be uploaded and thereafter when Ld. CIT(A)/NFAC issued another notice of hearing the date of hearing was mentioned as 21.05.2024 instead of 10.05.2024. However, we also find that the mistake in the notice issued by Ld. CIT(A)/NFAC was later on rectified and another notice mentioning the correct date of hearing as 10.05.2024 was issued to the assessee. It was the contention of the counsel of the assessee that the rectified notice fixing the date of hearing on 10.05.2024 was not received by them and they were under the impression that

the date of hearing is 21.05.2024. Admittedly, when Ld. CIT(A)/NFAC found, that, on the rectified/ revised date of hearing i.e. on 10.05.2024, no response has been filed by the assessee, he dismissed the appeal for want of prosecution and confirmed the order passed by the Assessing Officer. However, we find that apparently there is discrepancy in the dates of hearing i.e. 21-05-2024 or 10-05-2024 & the mistake has already been accepted by Ld. CIT(A)/NFAC in the Annexure of the hearing notice as under :-

“..... Please refer to this office earlier hearing notice issued u/s 250 of the IT Act, 1961 dated 06.05.2024 [vide DIN: ITBA/NFAC/F/APL_1/2024- 25/1064642541(1)]. Due to some technical error the date of hearing is mentioned as 21.05.2024. Hence, in supersession of the same this fresh hearing notice is being issued today and the revised date for submission, if any be now read as 10.05.2024 and your compliance be made accordingly. Based on which / failing which the case shall be decided on merits or dismissed accordingly.”

8. Considering the totality of the facts of the case, we find force in the arguments of Ld. Counsel of the assessee that proper opportunity has not been allowed to the assessee, even the hearing date was PREPONED. Therefore, without going into merits of the case, we deem it appropriate to set-aside the *ex-parte* order passed by Ld. CIT(A)/NFAC & remand the matter back to him with a direction to decide the appeal afresh as per fact and law after providing reasonable opportunity of hearing to the assessee. The

assessee is also hereby directed to respond to the notices issued by Ld. CIT(A)/NFAC and produce the requisite and desired documents/evidences in support of grounds of appeal without taking any adjournment under any pretext, otherwise Ld. CIT(A)/NFAC shall be at liberty to pass appropriate order as per law. Thus, the grounds of appeal raised by the assessee in this appeal are partly allowed.

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

Order pronounced on this 20th day of December, 2024.

Sd/-
(R. K. PANDA)
VICE PRESIDENT

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 20th December, 2024.

Sujeet

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "A" बेंच, पुणे / DR, ITAT, "A" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

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