



# IN THE INCOME TAX APPELLATE TRIBUNAL, BENCH 'B' PUNE

BEFORE HON'BLE SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER

AND

HON'BLE SHRI VINAY BHAMORE, JUDICIAL MEMBER



Sr	MA No.	Arising Out of ITA No.	Assessment Year	Applicant	Respondent
1	343/PUN/2023	675/PUN/2023	2012-13	Rakesh Subhash Agrawal <b>ABHPA8104B</b>	Asstt. CIT Central Circle-2, Nashik
2	344/PUN/2023	676/PUN/2023	2014-15		
3	345/PUN/2023	677/PUN/2023	2014-15		
4	347/PUN/2023	674/PUN/2023	2013-14	Pawan Subhash Agrawal <b>ADNPA2796H</b>	Asstt. CIT Central Circle-2, Nashik
5	348/PUN/2023	673/PUN/2023	2012-13		
6	349/PUN/2023	672/PUN/2023	2010-11		
7	350/PUN/2023	671/PUN/2023	2014-15		
8	351/PUN/2023	670/PUN/2023	2014-15		
9	352/PUN/2023	678/PUN/2023	2010-11	Subhash Chotamal Agrawal <b>AAPPA5287L</b>	Asstt. CIT Central Circle-2, Nashik
10	353/PUN/2023	679/PUN/2023	2014-15		

### Appearances

Assessee by : Mr Ravish Maniyar ['Ld. AR']

Revenue by : Mr BS Rajpurohit ['Ld. DR']

Date of conclusive Hearing : 18/10/2024

Date of Pronouncement : 27/12/2024

### ORDER



## **PER BENCH;**

This bunch of ten Miscellaneous Applications [now onwards 'MA'] of different assessee are filed u/r 24 of Income Tax Appellate Rules, 1963 [now onwards 'ITAT-Rules'] r.w.s. 254(2) of the Income-tax Act, 1961 [now onwards 'the Act'] seeking thereby to recall common & consolidated *ex-parte* order passed by this Tribunal in ITA No. 0670 to 0679/PUN/2023 dt. 20/07/2023 relating to assessment years 2010-11 & 2012-13 to 2014-15 [now onwards 'AY']

2. Since facts and subject matters involved in this bunch of MAs are identical, common & interrelated, on rival parties request, and for the sake of brevity these applications as well as the consequential original appeals are heard together for a common and consolidated order. Resultantly, the adjudication laid hereinafter in lead case MA No. 343/PUN/2023 *mutatis-mutandis* apply to remaining MAs.

3. At the outset of hearing Ld. AR Mr Maniyar stated that, in the absence of these appellant assesseees the Tribunal proceeded *ex-parte* and passed the common & consolidated order without adjudicating the appeals on legal & meritorious ground raised therein. Adverting to medical reports, discharge summary and bunch of prescriptions placed on record it was commonly submitted that, the reason behind



assessee's absence in prosecuting their main appeals at the scheduled hearing day was purely accidental & undeliberate. It was explained that, during pendency of main appeals one of the assessee 'Mr Rakesh Agrawal' was suffering from osteoarthritis and for the reason he was unexpectedly/unplannedly admitted to 'Breach Candy Hospital Trust', Mumbai on 25/06/2023 and shoved to undergo total left knee replacement surgery. Upon hospitalisation, Dr Arun Mullji operated the former assessee on 26/06/2023. The assessee was then discharged on 28/06/2023 with a mandate of fourteen days essential medical attention/care and follow up thereafter. In showcasing the reasonable cause behind non-prosecution, it was further stretched by the Ld. AR that, during the contemporary period the assessee's father who is also an assessee applicant 'Mr Suhash Agrawal' aged 77 years was also under remedial treatment/attention for multiple complexities under the medical supervision of Psychiatrist Dr Jagdish Gindodia, Dhule. The assessee's brother who is also an assessee applicant in the present bunch of MAs 'Mr Pawan Agrawal' was attending both these patient applicants during their medical treatments. All these applicants assessee's commonly claimed that, the surgery of Mr Rakesh Agrawal was impromptu and medical complexities of Mr Subhash Agrawal



unpremeditated, which collectively prevented them from prosecuting their respective main appeals filed by them before Tribunal u/s 253(1) of the Act. The stated medical emergency conditions prevailed in the family of these assessee's at the relevant time was the exclusive reason behind their absence thus behind non-representation of appeals at the scheduled hearing date, hence it was collectively prayed for an opportunity to represents their main appeals on legal as well as meritorious grounds. The Ld. DR Mr Rajpurohit could hardly displace the former clinching factual position and pull to pieces the applicants request for recalling the common & consolidated *ex-parte* order sought to be recalled on the stated/supported ground.

4. We have heard the rival party's common submissions and subject to rule 18 of ITAT-Rules, perused the material placed on records and considered the facts holistically in the light of judicial precedents pressed into service which are also forewarned parties present. We note that, the main appeals were listed first time on 27/06/2023 which were adjourned to 20/07/2023. On the second hearing, in the absence of these assessee without further opportunity the Tribunal proceeded *ex-parte* u/r 24 of ITAT-Rules, and remanded the issues back to Ld. First appellate authority. This *ex-parte* remand is commonly assailed



by these applicants in present but separate MAs. It is the claim of the applicants that, the impugned *ex-parte* adjudication even in the absence of assessee's was unwarranted in view of the clinching facts already placed/brought on records that in the absence of search on these assessee's, impugned assessment bad-in-law, which remained to be dealt with by the *ex-parte* order.

5. This rule 24 (supra), empowers Tribunal to decide an appeal filed by the appellant '*ex-parte on merits*' where the appellant does not appear in person or through an authorised representative and the same can done by the Tribunal by placing on record a no-objection from the respondent. We further note that, the proviso to the said rule inversely empowers the Tribunal to recall such *ex-parte* order if appellant appears afterwards and satisfies with evidential material that there was a sufficient cause for his/their non-appearance or non-prosecution when the appeal was called for hearing on scheduled day. That is to say recalling of *ex-parte* order in all the circumstances is subject to effective establishment of 'sufficient cause' behind such absence or non-prosecution and must also prove such was purely accidental.



6. We have given our thoughtful consideration to the common averments, reasonings, and explanations etc., of these applicants and found that, these assessee applicants were saddled with unplanned medical complexities in the family during the contemporary period when main appeals of these applicants were listed for hearing. The evidence placed on records suggests satisfactorily that, the non-appearance or non-prosecution of main appeals by these applicants were wholly attributable to aforesaid medical condition / complexities prevailing in their family. These medical emergencies were not only unplanned but also undeliberate in nature, thus were purely accidental. Therefore, not much less than sufficient cause to support the prayer for recalling the common & consolidated ex-parte order sought to be recalled in the present MAs. *Au contraire* there was nothing on record to suggest such non-prosecution of main appeals by these applicants were deliberate or intentional. For these reasons and former clinching undisputed facts & our observations we hold that, these applicants had sufficient reasons/cause and have successfully shown to us which collectively prevented them from prosecuting their respective main appeals, which were adjudicated *ex-parte* u/r 24 (supra) by the Tribunal at the very second hearing date.



7. The Hon'ble Apex Court in '*M/s J K Synthetic Vs CoCE*' [JT 1996, (7) 674 1996 SCALE (6) 299] dealing with the similar issue relating to recalling of *ex-parte* order passed by CEGAT, their Hon'ble lordship have categorically held that, 'it is for authority to consider in every such case where the party who applies for recall of the *ex-parte* order passed against him, ***had a sufficient cause for remaining absent when it was passed*** and, ***if it is established to the satisfaction*** that there was sufficient cause, then authority must set aside the *ex-parte* order though on merits, and restore the appeals to hear it a afresh on merits.'

8. In instant cases, these applicants had and have been commonly successful in showcasing to our satisfaction that there was sufficient cause which prevented them from prosecuting their appeals before Tribunal u/s 253(1) of the Act. Since these cases satisfied both the parameter set/laid in former judicial precedent, without multiplying the authority on the subject matter, in view of the former judicial precedent, we therefore deem it necessary to recall common & consolidated *ex-parte* order of this Tribunal dt. 20/07/2023 and post the main appeals ITA No 0670 to 0679/PUN/2023 for hearing on legal issue on even date. Ordered accordingly.

9. **In result, these Miscellaneous Applications are ALLOWED.**



## ITA No. 0670 to 0679/PUN/2023

Sr	ITA No.	Assessment Year	Order of Asstt/Penalty Passed u/s	Applicant	Respondent
1	0670/PUN/2023	2014-15	271AAB	Pawan Subhash Agrawal <b>ADNPA2796H</b>	Asstt. CIT Central Circle-2, Nashik
2	0671/PUN/2023	2014-15	143(3) r.w.s. 153A		
3	0672/PUN/2023	2010-11	143(3) r.w.s. 153A		
4	0673/PUN/2023	2012-13	271(1)©		
5	0674/PUN/2023	2013-14	143(3) r.w.s. 153A		
6	0675/PUN/2023	2012-13	143(3) r.w.s. 153A	Rakesh Subhash Agrawal <b>ABHPA8104B</b>	Asstt. CIT Central Circle-2, Nashik
7	0676/PUN/2023	2014-15	143(3) r.w.s. 153A		
8	0677/PUN/2023	2014-15	271AAB		
9	0678/PUN/2023	2010-11	143(3) r.w.s. 153A	Subhash Chotamal Agrawal <b>AAPPA5287L</b>	Asstt. CIT Central Circle-2, Nashik
10	0679/PUN/2023	2014-15	143(3) r.w.s. 153B		

10. Sr No. 2 to 3, 5 to 7 and 9 to 10 are relating to quantum appeals and Sr No 1, 4 & 8 are relating to penalty appeals. Since facts & issues involved in this bunch of ten appeals are identical, common & interrelated, on rival parties' common requests, and for the sake of brevity these appeals are heard together for a common and consolidated order.



**We shall first deal with ITA No. 0671 to 0672, 0674 to 0676 & 0678 to 0679/PUN/2023 [Reinstated Quantum Appeals];**

11. Briefly stated common facts narrated by the appellant and as emanating from case records are that; a search & seizure action u/s 132 of the Act was carried out on a third party '*Om Shree Group, Dhule*' pursuant to which vide authorisation F. No. NSK/CIT-I/Tech/Om Shree Gr./2013-14 dt. 14/02/2024 [now onwards 'Centralisation'] the cases of these assessee's were centralised with Commissioner of Income Tax-1, Nashik [now onwards 'Ld. CIT-1'].

**ITA No 0671, 0672 & 0674/PUN/2023 AY 2014-15, 2010-11 & 2013-14**

12. The assessee filed his returns on 24/08/2015 declaring total income of ₹63,76,442/-, ₹1,95,693/- & ₹49,26,963/- respectively. The said return of income was subjected for scrutiny assessment u/s 143(3) of the Act. In the event of assessee's failure to explain nature and source, the Ld. AO made following additions; (1) AY 2014-15 (a) unexplained discrepancies in cash balance of ₹3,21,333/- and (b) unexplained discrepancies in item/value of jewellery held in family of ₹12,67,562/-. (2) AY 2010-11 (a) unexplained discrepancies in investment of ₹1,50,000/-. (3) AY 2013-14 (a) unexplained



discrepancies in investment of ₹30,00,000/-. Obtaining approval u/s 153D of the Act vide letter Nsk/Jt.CIT(C)/153D/Approval/2015-16/881, 877 & 880 dt. 29/01/2026 [now onwards 'Approval'] the assessments were framed by Asstt. Commissioner of Income Tax Central Circle-2, Nashik [now onwards Ld. AO] u/s 143(3) r.w.s. 153A/153B of the Act by an order dt. 29/01/2016.

### **ITA No 0675 & 0676/PUN/2023 AY 2012-13 & 2014-15**

13. The assessee filed his return on 24/08/2015 declaring total income of ₹30,59,016/- & ₹39,36,803/- respectively. The said return of income was subjected for scrutiny assessment u/s 143(3) of the Act. In the event of assessee's failure to explain nature and source, the Ld. AO made following additions; (1) in AY 2012-13 (a) unexplained cash paid in relation to investment in plot of ₹10,00,000/- and (2) in AY 2014-15 (a) unexplained discrepancies in cash balance of ₹3,21,333/- and (b) unexplained discrepancies in item/value of jewellery held in family of ₹16,71,743/-. Obtaining approval u/s 153D of the Act vide letter Nsk/Jt.CIT(C)/153D/Approval/2015-16/863 & 861 dt. 29/01/2026 [now onwards 'Approval'] the assessments were framed by the Asstt. Commissioner of Income Tax Central Circle-2, Nashik



[now onwards Ld. AO] u/s 143(3) r.w.s. 153A/153B of the Act by an order dt. 29/01/2016.

**ITA No 0678 & 0679/PUN/2023 AY 2010-11 & 2014-15**

14. The assessee filed his return on 23/08/2015 declaring total income of ₹5,46,130/- & ₹40,53,922/- respectively. The said return of income was subjected for scrutiny assessment u/s 143(3) of the Act. In the event of assessee's failure to explain nature and source, the Ld. AO made following additions; (1) in AY 2010-11 (a) unexplained discrepancies in cash balance of ₹2,40,800/- and (2) AY 2014-15 (a) unexplained discrepancies in cash balance of ₹3,21,333/- (b) unexplained discrepancies in investment in jewellery of ₹20,54,424/. Obtaining approval u/s 153D of the Act vide letter Nsk/Jt.CIT(C)/153D/Approval/2015-16/892 & 896 dt. 29/01/2026 [now onwards 'Approval'] the assessments were framed by the Asstt. Commissioner of Income Tax Central Circle-2, Nashik [now onwards Ld. AO] u/s 143(3) r.w.s. 153A/153B of the Act by an order dt. 29/01/2016.

15. Aggrieved assessee unsuccessfully contested the aforesaid additions and assessments through separate appeal before the Ld.



CIT(A). Further aggrieved these assesseees came in present appeals on common legal & other meritorious grounds as;

1. *In the facts and circumstance of the case and in law. The Ld. CIT(A) erred in confirming the asstt u/s 153A of the I.T. Act, 1961 is without jurisdiction and bad in law, void ab initio, null & void, the same may please be annulled.*

2. *In the facts and circumstance of the case and in law. Since the Ld. AO has failed to serve upon the appellant the statutory notice u/s 143(2) of the I.T. Act, 1961 the impugned assessment is bad in law, void ab initio, null & void, being without jurisdiction the same may please be annulled.*

3. *On the facts and in the prevailing circumstances of the case and in law, the Ld. CIT(A) erred in confirming the addition made by the Ld. AO of Rs.x,xx,xxx/- on account of undisclosed cash, without ascertaining the facts and books of account of the appellant. Therefore, addition may please be deleted.*

4. *On the facts and in the prevailing circumstances of the case and in law, the Ld. CIT(A) erred in confirming the addition made by the Ld. AO of Rs.xx,xx,xxx/- on account of undisclosed investment in xxxxxxxx, without considering the records and submission of the appellant. Therefore, addition may please be deleted.*

5. *The appellant craves the permission to add, amend, modify, alter, revise, substitute, delete any or all grounds of the appeal it deemed necessary at the time of hearing of the appeal.*



16. During the course of hearing, actuating the first common legal ground of these appeals the Ld. AR raised fourfold contentions viz; (a) in the absence of any search/search warrant, the assessment framed u/s 143(3) r.w.s. 153A/153B of the Act is illegal & bad in law (b) the Ld. ACIT-2 had no jurisdiction as the case of the assessee was Centralised to Ld. CIT-1 (c) the approval granted u/s 153D of the Act on the very same day of assessment in a mechanical manner & was without vouching facts & issues, hence suffered from application of mind (d) the assessment for AY 2014-15 was framed u/s 143(3) r.w.s. 153B of the Act is erroneous no assessment u/s 153B is permissible. In support of former first three contention the Ld. AR Mr Maniyar placed on record the copy of Revenue's reply to these three assesseees against the separate letter seeking certified copies of order-sheet, copy of order authorising centralisation of assessee case, copy of search warrant, copy of panchnama etc., On the strength of Revenue's reply it is reinforced that, in case of assessee Mr Rakesh Agrawal the Revenue vide DIN & letter No. ITBA/COM/F/17/2023-24/1054157905(1) dt. 05/07/2023; in case of assessee Mr Pawan Agrawal the Revenue vide DIN & letter No. ITBA/COM/F/17/2023-24/1054157860(1) dt. 05/07/2023; and in case of assessee Mr Subhash Agrawal the Revenue



vide DIN & letter No. ITBA/COM/F/17/2023-24/1054157799(1) dt. 05/07/2023 has after due verification of its records received on decentralisation from DCIT, Central Circle-2, Nashik admitted & confirmed that, in the case of these assesseees no search warrant was found for any of the year under consideration. It was vehemently averred by the Ld. AR that, in absence of any search/search warrant in the name of these assesseees, the assessment framed u/s 143(3) r.w.s. 153A/153B of the Act [as per asstt order] are *ab-initio* void, illegal, hence deserves to be quashed. To drive home this contention the Ld. AR placed strong reliance on the decision in the case of '*CIT Vs Sikhya 'O' Anusandhan*' [2023, 331 CTR 348 (Ori)].

17. Next comes to framing of assessments without jurisdiction. Adverting to the assessment records, it is further commonly assailed that, the cases of these assesseees were claimed to have centralised by the Revenue to the jurisdiction of Ld. CIT Central Circle-I, Nashik, however the assessments in these cases were framed by the Ld. ACIT Central Circle-2. Without prejudice to former first contention, in view of the Centralisation Order it was Ld. ACIT Central Circle-1 who had the jurisdiction to frame the assessments for the year under consideration and not the Ld. ACIT Central Circle-2 who issued the



impugned notice u/s 153A/153B of the Act and framed these consequential impugned assessments. Therefore, on this count as well these assessments were without the valid jurisdiction hence cannot stand in the eyes of law. To press home this assertion, the appellant relied the decision of various co-ordinate benches and Hon'ble High courts. Referring to third contention the Ld. AR claimed that, the approving authority was mechanical in according approvals for framing assessments under challenge.

18. The assessee contended that, the approval cease to exhibit application of mind as the approval in all these cases including of search party '*Om Shree Group, Dhule*' were given on single day. The authority according approval in each assessee's case for each assessment year has to appraise the facts & circumstances and addition proposed in draft assessment order and after application of mind expected to reach the decision to approve. It is humanly next to impossible for any authority to have perused and appraised records of more than twenty five cases in any single day. The approval letters/orders did not only fail to make any nothings but also failed to mention fact that draft orders were perused for the purpose of sanction u/s 153D of the Act. These approvals clearly exhibits that were without



due application of mind, hence consequential assessments founded thereon cannot be continued in the light of '*PCIT Vs Shivkumar Nayyar*' [2024, 120 CCH 20 (Del)] and '*PCIT Vs Sapna Gupta*' [2022, SCC OnLine All 1294(SC)]. *Au contraire* the Ld. DR submitted that, insofar as the first contention relating to search or search warrant in the name of these three assesseees are concerned the letters dt. 05/07/2023 issued by the JAO through confirmed the fact that there are no search warrants however by subsequent letters dt. 14/08/2023 it has been clearly informed to the respective assesseees that relevant search records are not in his office custody but were lying with Investigation Wings Nasik. The inadvertency in confirming or informing the correct position of records need not vitiate legality of assessments in anyway. Coming to jurisdiction of Ld. ACIT Central Circle-2 in framing the assessment as against the Ld. ACIT Central Circle-1, the Ld. Mr Purohit averred that, the order of inter circle transfer must have been passed prior to framing of such assessments but same inadvertently been remained to be quoted in the communications & records, these however has no bearing on the final assessments. To bolster application of mind in according approval by the competent approving authority in these cases, the Ld. DR



submitted that there is no infirmity in the approval granted. It is contended that merely because the approval was granted on the same & single day when the draft assessment orders were sent, the same cannot be a ground to hold that the approval was accorded without any application of mind. According to Ld. Purohit, since the authority granting approval has been involved in the assessment proceedings from every first day, the same cannot be divested of its right to accord approval on single & same day.

19. Without going into merits, we have heard the rival common submissions and subject to rule 18 of ITAT-Rules, 1962 perused the material placed on records and considered the facts in the light of settled position of law, which was also forewarned to the parties present. We note that, by the impugned orders the appeals of the assessee were dismissed *ex-parte* for non-prosecution. The legal ground raised before the Tribunal were never raised in first appellate proceedings. Therefore, in the larger interest of justice it would have been unadorned to simply set-aside the impugned orders for their remand to the files of Ld. NFAC/CIT(A). However, the DIN quoted letters issued by the Ld. JAO subsequent to passing of impugned orders by the Ld. CIT(A) have raised serious doubts over the existence



of search records. We so say because records unambiguously exhibit that, a search action u/s 132 of the Act was initiated & conducted originally on 'Omshree Group' on 20/11/2013, wherein as many as seven residential premises, three factory premises and a locker maintained at treasury branch of SBI Bank, Dhule were also covered. Beside aforesaid search action a simultaneous survey action u/s 133A of the Act were also conducted at the factory premise of M/s Shree Gajanan Oil Mills, M/s Om Industries, M/s Sunil Traders. The office/residential premises of Mr Subhash Agrawal who is one of the present assessee and was one of the ex-directors of company belonging to this 'Omshree Group' also covered, pursuant to which the Revenue issued notice u/s 153A of the Act against Mr Subhash Agrawal and his two sons viz; Mr Rakesh Agrawal & Mr Pawan Agrawal [present three appellant assessee]. The cases of these assessee also vide authorisation F. No. NSK/CIT-I/Tech/Om Shree Gr./2013-14 dt. 14/02/2024 were centralised Ld. CIT-1 and the final assessments were passed by Ld. CIT-2. Upon completion of assessments vide Transfer Memo No. NSK/DCIT/CC-2/Transfer OI/2022-23/54, 55 & 60 dt. 13/03/2023 the case records were decentralised & transferred to Ld. JAO. The reasons of



decentralisation as noted at Sr. 5 states as under ‘ Case decentralised as per Pr. CIT(C) Nagpur Order u/s 127(3) F. No. Pr. CIT (C)/NGP/127/(2)/OmShree Gr./2020-21/1175 dated 02.11.2020’.

During the pendency of second appellate before the Tribunal, the assessee Mr Subhash Agrawal vide letter dt. 16/05/2023 addressed to Ld. JAO & Ld. AO requested for the copies of order sheet, search warrant and other communication related to assessments under challenge. Similarly, Mr Rakesh Agrawal vide letter dt. 15/05/2023 and Mr Pawan Agrawal vide letter dt. 12/05/2023 also made analogous request for supply of former copies needed in support of grounds of appeal raised before the Tribunal. In reply thereof, the Ld. JAO vide separate letters dt. 05/07/2023 confirmed absence of search warrants in cases of these three assesseees in relation to assessments under consideration. These confirmations, without further evidence & proceedings could have solitarily been sufficient to quash the impugned assessments and cease the adjudication. However, such adjudication would have led to turning blind eye to subsequent letters dt. 14/08/2023 issued by the Ld. JAO and brought on record by the Revenue which undermined earlier confirmation regarding absence of search warrants in the cases of these appellant assesseees.



20. The former letters issued by the Ld. JAO contradictory to each other coupled with facts that, assessments framed in case of '*Omsfree Group*' whereupon search was conducted u/s 132 of the Act were reversed in first appeals and second appeals thereagainst by the Revenue came to be dismissed by co-ordinate bench in ITA No. 045/PUN/2022 to 050/PUN/2022 vide order dt. 28/06/2023, have not only created a reasonable doubt of having framed these assessments without there being a valid search/search warrant issued against these three assesseees but the very nature of existence of material on the basis of which various additions were made/carried out in respective assessments. In these indubitable facts and circumstances, we have no hesitation in holding these assessments as irregular. In view of disruptive facts we cannot sustain the orders of the tax authorities below; we therefore set-aside the impugned orders and orders of assessments for their remand to the file of Ld. AO with a direction to reframe them *de-novo* after ascertaining pivotal facts from whole-sum records as to whether a search warrant on each of these three appellants were issued (if any) and held on record alongwith the material seized during such search (if any) on the basis of which additions could be made. The first common contention arising out of first common legal



ground thus stands partly allowed. All other contentions & common arguments raised rendered academic for adjudication, therefore delving deeper thereinto deemed unwarranted. These appeals thus stands partly allowed for statistical purposes in aforesaid terms.

**ITA No. 0670, 0673 & 0677/PUN/2023 [Reinstated Penalty Appeals];**

21. These appeals relates to impugned orders which confirmed the penalty imposed u/s 271AAB and 271(1)(c) of the Act. These penalties since had stood erected on the foundation of respective original assessments which we have already set-aside hereinbefore, therefore they have no legs to stand independently. In consequence, we also set-aside the impugned orders under challenge and delete these penalties as premature. The adjudication however imposes no restriction on the Revenue in invoking any penal provision in accordance with law in relation to *de-novo* assessments, if any framed on remand. The grounds & the appeals accordingly stands allowed.

**22. In result, these MAs are ALLOWED in aforesaid terms.**

In terms of rule 34 of ITAT Rules, order is pronounced in the open court on the date mentioned hereinabove.

-S/d-

**VINAY BHAMORE**  
**JUDICIAL MEMBER**

**27/12/2024**

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

1. अपीलार्थी / The Appellant.  
4. The CIT(A)/NFAC Concerned.

2. प्रत्यर्थी / The Respondent.  
5. DR, ITAT, Bench 'B', 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.