

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

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

**ITA No.2010/PUN/2024
Assessment year : 2018-19**

Ahmednagar Auto and Engineering Association G-47/5, G Block, Nagapur MIDC, Industrial Area, Ahmednagar – 414111	Vs.	ITO, Ward 1, Ahmednagar
PAN: AAICA4120G		
(Appellant)		(Respondent)

Assessee by : None
Department by : Shri R.Y. Balawade, Addl.CIT
Date of hearing : 30-12-2024
Date of pronouncement : 31-12-2024

ORDER

PER R. K. PANDA, VP :

This appeal filed by the assessee is directed against the *ex-parte* order dated 20.08.2024 of the Ld. CIT(A) / NFAC, Delhi relating to assessment year 2018-19.

2. Despite service of notice, none appeared on behalf of the assessee at the time of hearing nor any application for adjournment has been filed by the assessee. Therefore, this appeal is being decided on the basis of material available on record and after hearing the Ld. DR.

3. Although a number of grounds have been raised by the assessee, however, these all relate to the *ex-parte* order of the Ld. CIT(A) / NFAC in confirming the

various additions made by the Assessing Officer and thereby determining the total income of the assessee at Rs.3,35,44,438/- as against Nil returned income.

4. Facts of the case, in brief, are that the assessee is a non-profit association formed under MSE – CDP Programme to facilitate MSME located in Ahmednagar. It filed its return of income on 29.10.2018 declaring Nil income. The case of the assessee was selected for complete scrutiny assessment under the E-assessment Scheme, 2019 on the following issues:

<i>“S.No.</i>	<i>Issues</i>
<i>i.</i>	<i>Business Expenses”</i>

5. The return was processed u/s 143(1) of the Income Tax Act, 1961 (hereinafter referred to as ‘the Act’) determining the total income at Nil. Since the case was selected for scrutiny, notices u/s 143(2) and 142(1) of the Act were issued and served on the assessee. However, despite number of opportunities granted, the assessee did not file any reply for which the Assessing Officer completed the assessment u/s 144 of the Act and made various additions totaling to Rs.3,35,44,438/- on account of the following:

<i>a)</i>	<i>Disallowance u/s 37</i>	-	<i>Rs.96,84,389/-</i>
<i>b)</i>	<i>Addition on account of capital reserve</i>	-	<i>Rs.96,30,542/-</i>
<i>c)</i>	<i>Unexplained cash credit u/s 68</i>	-	<i>Rs.86,39,844/-</i>
<i>d)</i>	<i>Unexplained cash credit u/s 68</i>	-	<i>Rs.19,30,762/-</i>
<i>e)</i>	<i>Unexplained cash credit u/s 68</i>	-	<i>Rs.34,32,931/-</i>
<i>f)</i>	<i>Unexplained cash credit u/s 68</i>	-	<i>Rs.26,45,727/-</i>

6. Before the Ld. CIT(A) / NFAC, the assessee filed certain additional evidences in terms of rule 46A and it was explained that these documents could not be produced before the Assessing Officer due to personal exigencies. The Ld. CIT(A) / NFAC examined the said Rule and found that no such circumstances exist in the case of the assessee. Since the Assessing Officer passed the order u/s 144 of the Act on 11.05.2021 after giving reasonable opportunity of being heard to the assessee and since the assessee was not prevented by any sufficient cause, he rejected the additional evidences filed before him and dismissed the appeal filed by the assessee on the ground that the additions made by the Assessing Officer in the assessment order remained un-proved.

7. Aggrieved with such order of the Ld. CIT(A) / NFAC, the assessee is in appeal before the Tribunal by raising the following grounds:

1. *The learned CIT(A) erred in confirming the addition of Rs.3,35,44,438 made by the A.O. in the ex-parte asst. order u/s 144 by simply rejecting to admit the additional evidences furnished by the assessee without appreciating that the said action of the CIT(A) was against the settled principles of justice.*
2. *The learned CIT(A) failed to appreciate that there was a reasonable cause due to which the assessee company was not able to make proper compliances before the A.O. in the course of assessment proceedings and the additional evidences furnished by the assessee company were necessary for adjudication of the matter and therefore, the said evidences ought to have been admitted in the interest of justice.*
3. *The learned CIT(A) erred in not appreciating that the additional evidences mainly consisted of bank/loan statements of the appellant and thus, the genuineness of the said evidences could not be doubted and therefore, the CIT(A) ought to have admitted the said evidences in order to advance the cause of justice rather than mechanically confirming the huge addition made by the A.O. in the ex-parte asst. order u/s 144 by rejecting all evidences*

4. *Without prejudice to the above ground, the appellant submits that there was a reasonable cause due to which the notices issued by the A.O. could not be complied with by the appellant which resulted into the assessment order being passed ex- parte u/s 144 and hence, it is prayed that the matter may please be restored to the file of the A.O. in the interest of justice, so that the correct income may be determined after considering the submissions of the appellant.*
5. *The appellant craves, leave to add, alter, amend and delete any of the above grounds of appeal.*

8. We have heard the Ld. DR and perused the orders of the Assessing Officer and the Ld. CIT(A) / NFAC. A perusal of the order of the Ld. CIT(A) / NFAC shows that he did not accept the additional evidences filed before him by the assessee on the ground that the assessee could not explain before him that it was prevented by any sufficient cause for which those evidences could not be filed before him. A perusal of the assessment order shows that most of the notices were issued by the Assessing Officer during the prevailing Covid period and therefore that itself in our opinion is a sufficient ground on the part of the assessee for not appearing before the Assessing Officer and to file the requisite details. Since the various additional evidences filed before the Ld. CIT(A) / NFAC go to the root of the matter and the assessment proceedings were completed during the then prevailing Covid period, therefore, the Ld. CIT(A) / NFAC in our opinion, should have accepted the additional evidences filed before him and decided the issue as per the fact and law. However, he has failed to do so. 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 the Ld. CIT(A) / NFAC with a direction to admit the additional evidences filed before him and decide the issue as per fact and law after giving due opportunity of being heard to the assessee. The assessee is also hereby directed to

make its submissions, if any, before the Ld. CIT(A) / NFAC on the appointed date without seeking any adjournment under any pretext, failing which the Ld. CIT(A) / NFAC is at liberty to pass appropriate order as per law. We hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

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

Order pronounced in the open Court on 31st December, 2024.

Sd/-
(ASTHA CHANDRA)
JUDICIAL MEMBER

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

पुणे Pune; दिनांक Dated : 31st December, 2024
GCVSR

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent
3. The concerned Pr.CIT, Pune
4. DR, ITAT, 'A' Bench, Pune
5. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

// True Copy //

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

S.No.	Details	Date	Initials	Designation
1	Draft dictated on	30.12.2024		Sr. PS/PS
2	Draft placed before author	30.12.2024		Sr. PS/PS
3	Draft proposed & placed before the Second Member			JM/AM
4	Draft discussed/approved by Second Member			AM/AM
5	Approved Draft comes to the Sr. PS/PS			Sr. PS/PS
6	Kept for pronouncement on			Sr. PS/PS
7	Date of uploading of Order			Sr. PS/PS
8	File sent to Bench Clerk			Sr. PS/PS
9	Date on which the file goes to the Head Clerk			
10	Date on which file goes to the A.R.			
11	Date of Dispatch of order			