

IN THE INCOME TAX APPELLATE TRIBUNAL

PUNE "A" BENCH : PUNE

BEFORE SHRI RAMA KANTA PANDA, VICE PRESIDENT  
AND  
SHRI VINAY BHAMORE, JUDICIAL MEMBER

I.T.A.Nos.1364, 1365 & 1366/PUN./2024  
Assessment Years 2013-2014

|  |     |   |
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| Mauli Nagari Sahakari Patsanstha Maryadit, Sambhaji Nagar, Pipeline Road, Savedi, AHMEDNAGAR – 414 003 Maharashtra. PAN AAABM0970D | vs. | The Income Tax Officer, Ward-1, Income Tax Office, Behind Mahesh Theatre, Aurangabad Road, AHMEDNAGAR – 414 001. Maharashtra. |
| (Appellant)  |     | (Respondent)  |

|                |   |
|----------------|---|
| For Assessee : | Shri Prasad Bhandari<br>(Through Virtual) |
| For Revenue :  | Shri Ramnath P Murkude                    |

|                         |            |
|-------------------------|------------|
| Date of Hearing :       | 24.12.2024 |
| Date of Pronouncement : | 31.12.2024 |

**ORDER**

**PER RAMA KANTA PANDA, V.P. :**

The above three appeals filed by the Assessee are directed against the separate orders of the learned CIT(A)-National Faceless Appellate Centre [in short "NFAC"] relating to assessment year 2013-2014. While ITA.No. 1364/PUN./2024 involves issue of penalty u/sec.271(1)(c) of the Income Tax Act, 1961 (in short "the Act"), ITA.No.1365/PUN./2024 relates to levy of penalty u/sec.271(1)(b) of the Act and ITA.No.1366./PUN./2024 involves an ex-parte order of the Ld. CIT(A) dismissing the quantum appeal for want of prosecution.

For the sake of convenience all these three appeals were heard together and are being disposed of by this common order.

ITA.No.1366/PUN./2024 :

2. Learned Counsel for the Assessee, at the outset, submitted that the case of the assessee was reopened on the ground that assessee has not filed return of income and has made cash deposit of Rs.4,67,62,590/- with various banks and cooperative societies. Since the assessee did not appear nor responded to the notices issued by the Assessing Officer, he completed the assessment u/sec.147 r.w.s.144 r.w.s.144B of the Income Tax Act, 1961, determining the total income of the assessee at Rs.4,67,62,590/-. Due to non-response of the assessee before the Assessing Officer to the statutory notices issued, the Assessing Officer levied penalty of Rs.40,000/- u/sec.271(1)(b) of the Act. Similarly, the Assessing Officer initiated penalty proceedings u/sec.271(1)(c) of the Act and levied penalty of Rs.1,44,49,640/-.

2.1. Since the assessee did not respond to the notices issued by the Ld. CIT(A)-NFAC, he upheld the addition made by the Assessing Officer and also confirmed the penalties levied by the Assessing Officer u/sec.271(1)(b) and u/sec.271(1)(c) of the Act in the ex-parte order passed by him.

3. Learned Counsel for the Assessee, at the outset, submitted that due to change of email ID, the notices issued

by the O/o.Ld. CIT(A)-NFAC were not received by the assessee, for which, assessee could not submit any details before the Ld. CIT(A)-NFAC despite opportunities granted. He submitted that in the interest of justice the assessee should be given an opportunity to substantiate its case either before the Assessing Officer or the Ld. CIT(A)-NFAC.

4. Learned DR drew the attention of the Bench to the orders passed by the Assessing Officer as well as the Ld. CIT(A)-NFAC and submitted that the conduct of the assessee does not deserve any mercy for restoring the appeals to the file of either the Assessing Officer or the Ld. CIT(A)-NFAC and the addition made by the Assessing Officer including the penalties levied which has been upheld by the Ld. CIT(A)-NFAC should be confirmed.

5. We have heard the rival submissions made by both the sides and perused the material available on record. It is an admitted fact that due to non-response to the statutory notices issued by the Assessing Officer, he made addition of Rs.4,67,62,590/- being unexplained cash deposit made with various banks and cooperative societies. Further due to non-compliance to the statutory notices, he levied penalty of Rs.40,000/- u/sec.271(1)(b) of the Act and also levied penalty u/sec.271(1)(c) of the Act amounting to Rs.1,44,49,640/-. We find, despite four opportunities granted by the Ld. CIT(A)-

NFAC, the assessee did not make any submission, for which, the Ld. CIT(A)-NFAC was constrained to pass ex-parte orders by dismissing the appeals. It is the submission of the Learned Counsel for the Assessee that due to change in the email ID the notices issued by the O/o.Ld. CIT(A)-NFAC could not be seen for which the same could not be communicated to the Authorised Representative of the assessee. It is also his submission that given an opportunity the assessee is in a position to substantiate it's case before the Ld. CIT(A)-NFAC. Considering the totality of the facts and circumstances of the case and in the interest of justice, we deem it proper to restore the issue i.e., quantum appeal as well as the penalty appeals u/sec.271(1)(b) and 271(1)(c) of the I.T. Act, 1961 to the file of Ld. CIT(A)-NFAC with a direction to grant one final opportunity to the assessee to substantiate it's case and decide the issue as per fact and law. The assessee is also hereby directed to make it's submissions before the Ld. CIT(A)-NFAC on the date of hearing 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.

8. In the result, all the three appeals of the assessee are allowed for statistical purposes. A copy of this common order be placed in the respective case files.

Order pronounced in the open Court on 31.12.2024.

Sd/-  
[VINAY BHAMORE]  
JUDICIAL MEMBER

Sd/-  
[RAMA KANTA PANDA]  
VICE PRESIDENT

Pune, Dated 31<sup>st</sup> December, 2024

VBP/-

Copy to

|    |                             |
|----|-----------------------------|
| 1. | The appellant               |
| 2. | The respondent              |
| 3. | The CIT(A), Pune-12, Pune.  |
| 4. | The Pr. CIT, Pune concerned |
| 5. | D.R. ITAT, "A" Bench, Pune. |
| 6. | Guard File.                 |

//By Order//

//True Copy //

Sr. Private Secretary, ITAT, Pune Benches,  
Pune.