

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH, NAGPUR

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND
SHRI K.M. ROY, ACCOUNTANT, MEMBER

ITA no.418/Nag./2024
(Assessment Year : 2018-19)

Ramswroop Agarwal
0, Bhaiya Building Grain Market
Itwari Anaj Bazar, Nagpur 440 002
PAN – AANPA4230F

..... Appellant

v/s

Income Tax Officer
Ward-5(3), Nagpur

..... Respondent

Assessee by : Shri Abhay Agrawal
Revenue by : Shri Abhay Y. Marathe

Date of Hearing – 11/12/2024

Date of Order – 08/01/2025

ORDER

PER V. DURGA RAO, J.M.

The appeal by the assessee is against the impugned order dated 24/05/2024, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*learned CIT(A)*], for the assessment year 2018-19.

2. In its appeal, the assessee has raised following grounds:-

"1. Whether on the facts and in law, the order passed by learned CIT(A) u/s 250 of the Act is bad in law.

2. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in sustaining the addition made by the learned AO of Rs.31,78,33,340/- towards alleged bogus purchases under section 69C of the Act.

3. Whether on the facts and in law, the learned CIT(A) erred in not appreciating that the assessee had furnished a reply on 13/05/2024 thereby, requesting to keep the appeal proceedings in abeyance since, an appeal against reassessment order on similar issue for same year, was pending before learned CIT(A). That the assessee had requested learned CIT(A) to hear both appeals simultaneously.

4. Whether on the facts and in law, the learned CIT(A) erred in passing an ex-parte order despite response filed by the assessee.

5. The Assessee craves leave to add, alter, vary, omit, amend or delete one or more of the above grounds of appeal before, or at the time of, hearing of the appeal, so as to enable the Hon'ble Tribunal to decide this appeal according to law."

3. When this appeal is taken up for hearing, the learned A.R. appearing for the assessee submitted that the learned CIT(A) passed an ex-parte order and prayed that one opportunity may be granted by restoring the matter to the file of the learned CIT(A) to enable the assessee to substantiate its case before the learned CIT(A).

2. On the other hand, the learned D.R. submitted that despite the learned CIT(A) provided sufficient opportunities to the assessee, however, the assessee did not appear before the learned CIT(A) and not furnished relevant details. He strongly supported the orders passed by the learned CIT(A).

3. I have heard both the parties, perused the materials available on record and gone through orders of the authorities below. I find that though the learned CIT(A) granted opportunities to the assessee to substantiate its case, ultimately, the order passed by him is an ex-parte order. Therefore, I am of the opinion that by following the principles of natural justice, one opportunity should be given to the assessee to substantiate the case before the learned CIT(A). In view of the above, the order passed by the learned CIT(A) is set

aside and remit the matter to the file of the learned CIT(A) and direct him to adjudicate the matter afresh on merit and in accordance with law after providing reasonable opportunity of being heard to the assessee. It is also directed that the assessee should not seek adjournment without there being a justified reason. Accordingly, all the grounds raised by the assessee in this appeal are allowed for statistical purposes.

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

Order pronounced in the open Court on 08/01/2025

Sd/-
K.M. ROY
ACCOUNTANT MEMBER

Sd/-
V. DURGA RAO
JUDICIAL MEMBER

NAGPUR, DATED: 08/01/2025

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Nagpur; and
- (5) Guard file.

Pradeep J. Chowdhury
Sr. Private Secretary

True Copy
By Order

Sr. Private Secretary
ITAT, Nagpur