



BEFORE HON'BLE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER
AND

SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER

ITA Nos. 014/PAN/2024
Assessment Year : 2013-14

Mahadev Mallappa Atar
PWD Contractor,
Katkol, Ramdurg,
Dist. Balgavi-591114
PAN:ABXPA7467P

..... *Appellant*

V/s

Asstt. Commissioner of Income Tax,
Circle-1 Belgavi.

..... *Respondent*

Appearances

Assessee by: None for the assessee
Revenue by : Ms Nazeera Mohammad ['Ld. DR']
Date of conclusive Hearing : 02/01/2025
Date of Pronouncement : 03/01/2025

ORDER

PER G. D. PADMAHSHALI, AM;

The DIN & Order No. ITBA/NFAC/S/250/2023-24/1058190019(1) dt. 23/11/2023 passed u/s 250 of the Income-tax Act, 1961 [for short 'the Act'] by the National Faceless Appeal Centre, Delhi [for short 'Ld. NFAC'] which ascended out of order of assessment passed u/s 143(3) of the Act for assessment year 2013-14 [for short 'AY'] is challenged by the assessee u/s 253(1) of the Act.



2. The case was called twice, none appeared at the behest of the appellant nor the records shows any application therefrom seeking or requesting for adjournment in the matter. On the primary briefing from the Ld. DR we deem it appropriate to proceed and adjudicate the limited issue *ex-parte* in the absence of appellant u/r 24 of ITAT-Rules, 1963. After noting the same, we advanced accordingly.

3. Briefly stated facts of the case records are that;

The assessee is an individual who declaring a total income of ₹25,51,370/- filed his tax return on 30/09/2013. The return was initially processed u/s 143(1) of the Act and subsequently subjected to scrutiny assessment u/s 143(3) of the Act. The resultant scrutiny assessment was completed vide order dt. 17/03/2016 wherein the total income of the assessee was assessed at ₹92,92,821/- owing to three separate addition viz; (1) 40A(3) disallowance of cash payment of ₹42,82,901/- made M/s Anup Cements (2) disallowance of bogus expenditure of ₹4,26,550/- paid to M/s Bharati Cements and (3) 40A(3) disallowance of cash payment of ₹32,000/- made to M/s Nirani Cements and (4) unexplained cash deposits of ₹20,00,000/- added u/s 68 of the Act. Aggrieved by the aforesaid additions the assessee filed first appeal before Ld. NFAC which came to be dismissed.



4. Further aggrieved, the assessee came in present appeal on as many as eight augmentative grounds, reproduction of which deemed unnecessary in view of rule 8 of ITAT-Rules, 1963.

5. We have heard the Ld. DR on limited issue and subject to rule 18 (supra) perused material placed on record. We note that during first appellate proceedings the assessee failed to substantiate his claims with corroborative evidence in support of grounds of appeal raised by him as a result the assessment was confirmed by the Ld. NFAC. However we also note while echoing the views of Ld. AO the impugned order did fail to showcase (a) carrying out necessary enquiries and (b) provide independent findings (c) reasoning in confirming the additions and dismissing the grounds of the assessee.

6. In absence of cogent evidential material, submission and non-compliance by the appellant, in the evince of restriction placed by 251(1)(a) of the Act, the Ld. NFAC but natural had to culminate the proceedings without further notice to the assessee. However, we are heedful to quote that the restriction placed by clause (a) of sub-section (1) of section 251 of the Act which obligates the Ld. NFAC to adjudicate the issue either by confirming or annulling the addition or reducing or enhancing the addition made by the assessing officer



without the right to remand the matter back. However while exercising the jurisdiction u/s 251(1)(a) of the Act, the Ld. NFAC was invariably required to; **(a) state point of determination, (b) its decision thereon** and **(c) clear reasons therefore** in terms of section 250(6) of the Act. Per contra in the instant case, we find that the Ld. NFAC confirmed the additions in line with the order of assessment without adjudicating the matter in terms of sub-section (6) of section 250 of the Act, thus suffered from former compliance. Thus the impugned order in our considered view is not in consonance with the provision of sub-section (6) of section 250 of the Act. For the reasons, without commenting on merits of the case, we set-aside the impugned order and remand the matter back to the file of Ld. NFAC with a direction to deal therewith *de-novo* after according not more than three effective opportunities to the assessee and pass a speaking order in terms of section 250(6) of the Act.

7. The appeal in result is allowed for statistical purposes.

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

-S/d-

**PAVAN KUMAR GADALE
JUDICIAL MEMBER**

Panaji/Dt: 03rd January, 2025

Copy of the Order forwarded to :

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|-------------------|-----------------------------------|------------------------------|
| 1. The Appellant. | 2. The Respondent. | 3. The CIT(A)/NFAC Concerned |
| 4. PCIT Concerned | 5. DR, ITAT, Panaji Bench, Panaji | 6. Guard File |

-S/d-

**G. D. PADMAHALI
ACCOUNTANT MEMBER**

By Order,
Sr. Private Secretary / AR ITAT, Panaji.