



**।आयकर अपीलीय अधिकरण "ए" न्यायपीठ पुणेमें।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**PUNE BENCHES "A" :: PUNE**

**BEFORE DR.DIPAK P. RIPOTE, ACCOUNTANT**  
**MEMBER AND**  
**SHRI VINAY BHAMORE, JUDICIAL MEMBER**

**आयकर अपील सं. / ITA Nos.1367, 1368 & 1369/PUN/2024**

**निर्धारण वर्ष / Assessment Years: 2014-15, 2015-16 & 2016-17**

Ganesh Vishnu Harde, 1, At Post Sonai, Newasa Dist, Ahmednagar – 414105. PAN: AHGPH2574P	V s	The Income Tax Officer, Ward-2, Ahmednagar.
Appellant / Assessee		Respondent / Revenue

Assessee by	None.
Revenue by	Shri Ramnath P Murkude – DR
Date of hearing	23/10/2024
Date of pronouncement	23/10/2024

**आदेश/ ORDER**

**PER DR. DIPAK P. RIPOTE, AM:**

These are three appeals filed by the Assessee against the separate orders of Id.Commissioner of Income Tax(Appeal)[NFAC], under section 250 of the Income Tax Act, 1961 for A.Y.2014-15, A.Y.2015-16 and A.Y.2016-17; all dated 23.04.2024. Since the issue involved is common, all these three appeals were heard together and decided by the common order.



1.1 We will take the A.Y.2014-15 as a lead case. The assessee has raised following Grounds of appeal :

*“1. On the facts and in the circumstances of the case and in Law the Respected CIT(A) - NFAC erred in confirming additions made Ld. Assessing Officer in the assessment order under section 143(3) without considering the fact that the whole of the cash deposits into the bank account shall not be treated as income of the assessee. Hence, the additions made in the assessment order which is bad in law may please be deleted.*

*2. On the facts and circumstances of the case and in Law the Respected CIT(A) - NFAC erred in confirming additions made by the Ld. Assessing Officer without providing the sufficient opportunity of being heard and hence the impugned order may please be set aside and the matter may please be remanded back to the Ld. Assessing Officer.*

*3. The Appellate craves the permission to add, amend, modify, alter, revise, substitute, delete any or all grounds of the appeal, if deemed necessary at the time of hearing of the appeal.”*

**Submission of ld.AR :**

2. At the outset of hearing, no one appeared on behalf of the assessee.

**Submission of ld.DR :**

3. The ld.DR for the Revenue relied on the order of the AO and ld.CIT(A).

**Findings & Analysis :**

4. In this case, AO has made addition u/sec.69A of Rs.47,97,131/- which was the amount of cash deposited by the



assessee in the Bank Account maintained with Shri Renukamata Multi State Urban Co-operative Credit Society Limited.

4.1 In this case, Assessee had filed Return of Income for A.Y.2014-15 on 27.07.2014 declaring total income of Rs.2,92,330/-. Subsequently, Assessing Officer(AO) issued notice u/sec.148 of the Act on 31.03.2021 and it was served on the Registered Email Id of the Assessee. It is apparent from the assessment order that Assessee had filed Return of Income on 09.03.2022 in response to notice u/sec.148 of the Act. The Assessee asked AO to provide copies of the reasons recorded for issuing notice u/sec.148 of the Act. It is apparently clear from Page No.2 of the assessment order that though assessee requested to provide copy of reasons recorded, the AO had not provided copies of reasons recorded to the assessee. The assessee had raised this issue in the appeal filed before Id.CIT(A) vide Ground No.1. Ld.CIT(A) has reproduced this ground. However, it is observed from the Id.CIT(A)'s order that Id.CIT(A) has not adjudicated Ground No.1 raised by the assessee. Ld.CIT(A) rather has not discussed any of the Ground raised by the assessee. Ld.CIT(A) has given a Chart showing notices issued by Id.CIT(A) and according



to the said Chart, assessee has not filed any reply. Therefore, Id.CIT(A) without discussing the Grounds of Appeal raised by the Assessee, dismissed the appeal of the assessee and upheld the addition made.

5. The Hon'ble Bombay High Court has held in the case of Pr.CIT(Central) *Vs.Premkumar Arjundas Luthra (HUF Bombay)/[2017] 297 CTR 614 (Bombay)* as under :

*Quote, "8.From the aforesaid provisions, it is very clear once an appeal is preferred before the CIT(A), then in disposing of the appeal, he is obliged to make such further inquiry that he thinks fit or direct the Assessing Officer to make further inquiry and report the result of the same to him as found in Section 250(4) of the Act.*

*Further Section 250(6) of the Act obliges the CIT(A) to dispose of an appeal in writing after stating the points for determination and then render a decision on each of the points which arise for consideration with reasons in support. Section 251(1)(a) and (b) of the Act provide that while disposing of appeal the CIT(A) would have the power to confirm, reduce, enhance or annul an assessment and/or penalty. Besides Explanation to sub-section (2) of Section 251 of the Act also makes it clear that while considering the appeal, the CIT(A) would be entitled to consider and decide any issue arising in the proceedings before him in appeal filed for its consideration, even if the issue is not raised by the appellant in its appeal before the CIT(A). Thus once an assessee files an appeal under Section 246A of the Act, it is not open to him as of right to withdraw or not press the appeal. In fact the CIT(A) is obliged to dispose of the appeal on merits. In fact with effect*



*from 1st June, 2001 the power of the CIT(A) to set aside the order of the Assessing Officer and restore it to the Assessing Officer for passing a fresh order stands withdrawn.*

*Therefore, it would be noticed that the powers of the CIT(A) is coterminous with that of the Assessing Officer i.e. he can do all that Assessing Officer could do. Therefore just as it is not open to the Assessing Officer to not complete the assessment by allowing the assessee to withdraw its return of income, it is not open to the assessee in appeal to withdraw and/or the CIT(A) to dismiss the appeal on account of non-prosecution of the appeal by the assessee. This is amply clear from the Section 251(1)(a) and (b) and Explanation to Section 251(2) of the Act which requires the CIT(A) to apply his mind to all the issues which arise from the impugned order before him whether or not the same has been raised by the appellant before him. Accordingly, the law does not empower the CIT(A) to dismiss the appeal for non-prosecution as is evident from the provisions of the Act.” Unquote.*

5.1 Thus, Hon’ble Bombay High Court has categorically held that ld.CIT(A) has to decide the appeal on merit and ld.CIT(A) does not have any power to dismiss appeal for non-prosecution.

6. It has been alleged by the assessee that copies of the reasons were not provided to the assessee. Therefore, ld.CIT(A) shall provide copies of the reasons recorded by the Assessing Officer. In these facts and circumstances of the case, respectfully following Hon’ble Jurisdictional High court, the order of the ld.CIT(A) is set-



aside to ld.CIT(A) for denovo adjudication. Ld.CIT(A) shall provide opportunity of hearing to the assessee. Assessee shall file all necessary documents before the ld.CIT(A).

7. In the result, appeal of the assessee in ITA No.1367/PUN/2024 is allowed for statistical purpose.

**ITA Nos.1368 & 1369/PUN/2024 :**

8. Since the we have decided the above appeal of the assessee i.e. lead case and the facts of both these appeals are common, the decision of the same shall apply *mutatis-mutandis* to these two appeals also. Accordingly, grounds of appeal raised in both these appeals are allowed for statistical purpose.

8.1 In the result, both appeals of the assessee are allowed for statistical purpose.

9. To sum up, appeals of the assessee in ITA Nos.1367, 1368 & 1369/PUN/2024 are allowed for statistical purpose.

Order pronounced in the open Court on 23<sup>rd</sup> October, 2024.

**Sd/-**  
**(VINAY BHAMORE)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(DR. DIPAK P. RIPOTE)**  
**ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated : 23<sup>rd</sup> Oct, 2024/ SGR\*



**आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.
5. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच,  
पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

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