



IN THE INCOME TAX APPELLATE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

BEFORE DR.MANISH BORAD, ACCOUNTANT MEMBER
AND
SHRI MANOMOHAN DAS, JUDICIAL MEMBER

आयकर अपील सं. / ITA Nos.105 and 106/GTY/2024
Assessment Year : 2018-19

Rama Katowal Chetry, 4 No. Rongbong Kanaighat, Golaghat-785699 Assam PAN : AMUPC0403H	V/s	ITO, Ward Golaghat, Golaghat
Appellant		Respondent

Assessee by	:	None
Revenue by	:	Shri Sanjay Jha
Date of hearing	:	18.11.2024
Date of pronouncement	:	20.01.2025

आदेश / ORDER

PER DR. MANISH BORAD, ACCOUNTANT MEMBER :

The assessee has instituted the instant two appeals for the A.Y. 2018-19. ITA No.105/GTY/2024/2024 is filed against the quantum addition made by the Assessing Officer u/s.69A of the Act whereas ITA No.106/GTY/2024 is filed against the penalty levied u/s.270A of the Act for the same assessment year, ie.



2018-19. For the sake of convenience, these appeals were heard together and are being disposed of by this common order.

2. Succinctly, the facts of the case are that the assessee is an individual who has not filed return of income for A.Y. 2018-19. Based on the information that the assessee has received contract receipt of Rs.4,83,185/- from Numaligarh Refinery Limited and withdrawn cash of Rs.1,14,97,417 from HDFC Bank Ltd. the case was reopened by issuance of notice u/s.148. Statutory notices u/s.142(1) were issued to the assessee. The assessee neither complied with notice u/s.148 nor with notice u/s.142(1) of the Act. Ld. Assessing Officer issued sought information from the HDFC Bank ltd. by issuing notice u/s.133(6) of the Act and completed the assessment u/s.144 of the Act making addition of cash deposits of Rs.1,42,14,262/- as unexplained money u/s.69A and invoked the provisions of section 115BBE of the Act. Ld. AO also made addition of Rs.38,655/- being 8% of the alleged contract receipt of Rs.4,83,185/-.

3. Aggrieved assessee preferred appeal before the ld.CIT(A)/NFAC who dismissed the appeal of the assessee by holding as under :

“2. It is seen that the appellant has not filed Form No.35, Statement of Facts, Grounds of appeal, Application for Condonation of delay,



Particulars of payment of Appeal Fee. It is also seen that the appellant failed to enclose the order against which the appeal has been preferred. In view of this, the appellant was issued a defective notice on 10/04/2024 requesting to rectify the defects. The copy of the letter is re-produced as under :

.....

.....

The appellant has not responded to the above defective notice till date within the due date, hence a notice u/s 250 of the Act was further issued on 22/04/2024 vide DIN: ITBA/NFAC/F/APL_1/2024-25/1064270844(1) which is seen delivered in the registered e-mail ID. In the said notice, followings are specifically noted:-

"A defective notice was issued on 10/04/2024 vide DIN & Letter No: ITBA/NFAC/S/25/2024- 25/1064018339(1) to rectify the defects mentioned in the letter, however, till date neither the defects were cured nor has any compliance been made by you. In view of this, you are hereby given a final opportunity to rectify the defects on or before 29/04/2024 failure to which the appeals shall be treated as defective and invalid."

3. The above defective notice and 250 notice were sent online through ITBA which are shown delivered to the registered e-mail provided by the appellant. However, till date, neither the defects have been rectified nor the appellant made any response. This reflects the casual approach of the appellant towards the Income-tax proceedings.

3.1 In view of the above facts, I am of the view that the appeal is invalid being defective as the defect was not cured despite being specifically pointed out to the appellant."

4. Now the assessee is in appeal before the Tribunal challenging the impugned order passed by Id.CIT(A)/NFAC.



5. When the case was called for, none appeared on behalf of the assessee despite due service of notice of hearing. We therefore proceed to decide the appeal with the able assistant from ld. Departmental Representative *ex parte* qua the assessee.

6. We have heard the ld. Departmental Representative and perused the record placed before us. On perusal of the paper book filed before us, we find that the assessee has properly filed Form No.35, statement of facts, Grounds of appeal, Application for condonation of delay etc. The ld.CIT(A)/NFAC has merely dismissed the appeal of the assessee by giving a bald finding that the assessee has not filed the documents properly. The ld. Departmental Representative could not rebut the factual position. In light of these facts, we are of the considered opinion that the ld.CIT(A)/NFAC erred in dismissing the appeal. In view thereof, without dwelling into merits of the case, we set-aside the impugned order to the file of ld.CIT(A)/NFAC for denovo adjudication of the appeal after appreciating the correct facts and pass a speaking order in accordance with law after affording reasonable opportunities of hearing to the assessee and also to make necessary rectification in Form No.35 (if needed). The assessee is also directed to remain vigilant and not to take adjournment unless otherwise required for reasonable cause, failing which the ld. NFAC shall be free to



proceed in accordance with law. Finding of the ld. NFAC is set aside and Grounds of appeal raised by the assessee are allowed for statistical purposes.

7. ITA No.106/GTY/2024 filed by the assessee is against the levy of penalty u/s.270A of the Act. On perusal of the paper book filed before us, we find that albeit the assessee has filed all the documents properly before ld.CIT(A)/NFAC however, the ld.CIT(A)/NFAC has dismissed the penalty appeal also like that of quantum appeal stating that the assessee has not filed the documents properly. Further, considering the entirety of facts and circumstances, we deem it proper to remit the penalty appeal as well to the file of ld.CIT(A)/NFAC for *denovo* adjudication with similar directions given in ITA No.105/GTY/PUN/2024.

8. In the result, both the appeals of the assessee are allowed for statistical purposes.

Order pronounced on this 20th day of January, 2025.

Sd/-

(MANOMOHAN DAS)
JUDICIAL MEMBER

Sd/-

(MANISH BORAD)
ACCOUNTANT MEMBER

दिनांक / Dated : 20th January, 2025

Satish



ITA Nos.105 and 106/GTY/2024
Rama Katowal Chetry

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, “, Guwahati” बेंच,
/ DR, ITAT, Guwahati Bench
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Assistant Registrar