

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH, NAGPUR

BEFORE SHRI V. DURGARAO, JUDICIAL MEMBER AND
SHRIK.M. ROY, ACCOUNTANT, MEMBER

ITA no.549 and 551/Nag./2024
(Assessment Year : 2016-17 and 2017-18)

Mohammad Rafique Abdul Rahim
436, KGN Hiranani Galli
Akabar Plot, Akola 444 004
PAN – BJQPM4591N

..... Appellant

v/s

Income Tax Officer
Ward-2, Akola

..... Respondent

Assessee by : Shri Prasad Deshpande
Revenue by : Shri Abhay Y. Marathe

Date of Hearing – 23/01/2025

Date of Order – 27/01/2025

ORDER

Captioned appeals by the assessee is against the impugned orders of even date 19/08/2024, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*learned CIT(A)*], for the assessment year 2016-17 and 2017-18 respectively.

2. In its appeal for A.Y. 2017-18, the reasons stated by the assessee for non-appearance before the learned CIT(A) are as under:-

"1. I am Small business man I do not have any knowledge about handling of E - mails and Income Tax Procedure. And I do not have any knowledge about notice of Appeal. Unawareness about filling of Reply to notices send by Income Tax Department. As I am unaware that reply has to be submitted to notice send by department. I have submitted late reply to appeal or on some time no reply has been given. But now after contacting with professionals I come to know about appeal procedure. Hence Its my Sincere request to you kindly

restore my appeal proceeding for Assessment Year 2017-18. So that I Can give you Reply to your Appeal Notices with supporting documents and information REQUEST FOR CALL BACK OF APPEAL (CIT APPEAL)."

Similar reasons have been given by the assessee in its appeal for A.Y. 2017-18 also.

3. When these appeals came up for hearing, the learned A.R., Shri Prasad Deshpande, appearing for the assessee submitted that the assessee could not appear before the learned CIT(A) during first appellate proceedings, as the assessee was unaware that reply has to be submitted in response to the statutory notices issued and neither the assessee is aware of the procedure to be followed during the appellate proceedings, which resulted in passing ex-parte orders by the learned CIT(A). It is only when the assessee contacted an Income Tax Practitioner and knew about the process of filing reply and making appearance before the learned CIT(A). The assessee thus prayed that one opportunity may be granted to the assessee by restoring the matter to the file of the learned CIT(A) to enable the assessee to substantiate its appeals before the learned CIT(A) on merits.

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 orders passed by him is an ex-parte order for both the years under consideration. In our opinion, the learned CIT(A) was indeed justified in dismissing the assessee's appeals due to non-appearance. However, to meet the ends of justice, 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 appeals before the learned CIT(A). In view of the above, the orders passed by the learned CIT(A) for both the years under consideration are hereby set aside and remit the appeals back to the file of the learned CIT(A) and direct him to adjudicate these appeals afresh on merits 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 and adhere to the statutory notices to be issued by the learned CIT(A) promptly. We order accordingly.

4. In the result, appeals filed by the assessee for A.Y. 2016-17 and 2017-18 are allowed for statistical purposes.

Order pronounced in the open Court on 27/01/2025

Sd/-
K.M. ROY
ACCOUNTANT MEMBER

Sd/-
V. DURGA RAO
JUDICIAL MEMBER

NAGPUR, DATED: 27/01/2025

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