

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR “SMC” BENCH : NAGPUR

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER

ITA.No.459/NAG./2024 [E-APPEAL]
Assessment Year 2018-2019

Nuruddin Alihusain Suratwala, Amatuallah Manzil, Jagnath Budhwari, Itwari, NAGPUR – 440 002 Maharashtra. PAN DSIPS6966L	vs.	The Income Tax Officer, Ward-4(4), BSNL RTTC Bldg. Communication Road, Seiminary Hills, NAGPUR. Maharashtra. PIN 440 006.
(Appellant)		(Respondent)

For Assessee :	MS. Alfiya Rozie, C.A.
For Revenue :	Shri Abhay Y. Marathe, Sr. DR

Date of Hearing :	27.01.2025
Date of Pronouncement :	28.01.2025

ORDER

PER V. DURGA RAO, J.M. :

This appeal has been filed by the assessee against the order dated 28.06.2024, of the learned CIT(A)-National Faceless Appeal Centre [in short “NFAC”], relating to assessment year 2018-2019.

2. Facts of the case, in brief, are that the assessee is an individual and filed his return of income on 31.10.2018 for the impugned assessment year 2018-2019, declaring income of

Rs.5,46,880/-. The case of the assessee has been selected by the ITBA software of the department and as per the specific information the assessee has purchased immovable property for Rs.25,68,000/- during F.Y. 2017-2018. The Assessing Officer, therefore, reopened the assessment u/sec.147 of the Act by taking necessary approval from the competent authority and issued statutory notices u/sec.143(2), 142(1) and show cause notice also u/sec.144 of the Act. Since, there were no response from the side of the assessee, the Assessing Officer passed ex-parte assessment order u/sec.144 r.w.s.147 and 144B of the Act by making addition of Rs.17,08,280/- on account of unexplained investment u/sec.69 of the Act; Rs.10,78,000/- on account of income from other sources u/se.56(2)(x) of the Act and determined the total income of the assessee at Rs.33,33,160/- .

3. Aggrieved by the order of the Assessing Officer, the assessee carried the matter in appeal before the learned CIT(A) with a delay of 433 days. The learned CIT(A) without considering the assessee's condonation of delay affidavit, confirmed the order of the Assessing Officer, without deciding the appeal on merits.

4. During the course of hearing, Learned Counsel for the Assessee submitted that the learned CIT(A) was not justified in not condoning the delay without considering the submissions of the assessee with respect to the delay of 433 days. He submitted that the assessee is a power of attorney holder and the transaction in question does not belong to him. He accordingly submitted that the impugned addition made in the hands of the assessee may please be deleted taking into consideration of the smallness of the matter.

5. The Learned DR on the other hand, strongly relied on the ex-parte orders of the lower authorities. He submitted that since the assessee failed to substantiate its case before the Assessing Officer, the Assessing Officer rightly made the impugned addition. He submitted that the delay of 433 days in filing of the appeal before the learned CIT(A) has not been properly explained by the assessee and as such the order of the learned CIT(A) is in accordance with law and it should be upheld.

6. I have heard the rival submissions of both the parties and perused the material on record. I find that the learned CIT(A) has failed to consider the explanation offered by the assessee with respect to delay and confirmed the addition made by the Assessing Officer.

Both the authorities are passed ex-parte orders without providing adequate opportunity to the assessee and has not decided the matter in issue on merits. I find that the assessee has filed his return of income, offered explanation for the delay as well as submitted that he is a power of attorney holder only and the property in question does not belong to him. Though the assessee is ready to furnish the complete details to substantiate his claim, the authorities below did not provide adequate opportunity and made the impugned addition in the hands of the assessee, without deciding the issue on merits as contemplated u/sec.250(6) of the Act, according to which, the learned CIT(A) has to give reasons for decision and adjudication thereof, even if assessee did not appear before him. I, therefore, deem it appropriate to delete the addition made by the Assessing Officer and confirmed by the learned CIT(A) in the interest of substantial justice and taking into consideration of smallness of the issue. I further observe that this issue shall not be taken as a precedent for any other appeal. I hold and direct accordingly.

7. In the result, appeal of the assessee is allowed.

Order pronounced in the open Court on 28.01.2025.

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Nagpur, Dated 28th January, 2025

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	The CIT(A), Nagpur concerned
4.	The CIT, Nagpur concerned
5.	The D.R. ITAT, Nagpur SMC-Bench, Nagpur
6.	Guard File.

//By Order//

//True Copy//

Sr. Private Secretary : ITAT : Nagpur Bench
NAGPUR.