

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH, NAGPUR

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

ITA no.280 and 281/Nag./2024
(Assessment Year : 2018-19)

Sachin Khare
Q-20, Shree Residency
Laxmi Nagar, Nagpur 440 022
PAN – ALKPK7087Q

..... Appellant

v/s

Dy./Asstt. Commissioner of Income Tax
Circle-1, Nagpur

..... Respondent

Assessee by : Shri Mahavir Atal
Revenue by : Shri Abhay Y. Marathe

Date of Hearing – 22/01/2025

Date of Order – 27/01/2025

ORDER

PERV. DURGARAO, J.M.

These appeals filed by the assessee which emanates from the impugned orders of even date 06/03/2024, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*learned CIT(A)*], for the assessment year 2018-19.

2. Assessee's appeal being ITA no.280/Nag./2024, for A.Y. 2018-19, is against the quantum addition of ₹ 2,71,22,468, made by the Assessing Officer under section 68 of the Act, which was also confirmed by the learned CIT(A) and assessee's appeal being ITA no.281/Nag./2024, for A.Y. 2018-19 is

against penalty of ₹ 20,95,210, levied under section 271AAC(1) of the Act by the Assessing Officer and confirmed by the learned CIT(A).

3. While going through the orders of the authorities below, we find that the assessee failed to furnish the details, as sought by the Assessing Officer, to establish the identity, creditworthiness and genuineness of the transaction and hence the Assessing Officer made addition of ₹ 2,71,22,468 under section 68 of the Act. Since the quantum addition was made by the Assessing Officer, resultantly, the Assessing Officer levied penalty of ₹ 20,95,210, under section 271AAC(1) of the Act. The assessee being aggrieved filed appeal before the first appellate authority.

4. Before the learned CIT(A), the assessee failed to appear despite learned CIT(A) provided ample opportunities to the assessee to appear during the first appellate proceedings by furnishing required details and prove the identity, creditworthiness and genuineness of the transaction. Consequent upon non-cooperation of the assessee who failed to comply with the statutory notices which remained non-complied by the assessee, hence the learned CIT(A) also passed the impugned order by dismissing the appeals filed by the assessee without going onto the merits of the issues raised by the assessee. Aggrieved, the assessee is in further appeal before the Tribunal.

5. Before us, the learned Authorised Representative appearing for the assessee submitted that the learned CIT(A) passed an ex-parte order and prayed that one opportunity may be granted by restoring the appeals to the

file of the learned CIT(A) to enable the assessee to substantiate its cases before the learned CIT(A).

6. On the other hand, the learned D.R. submitted that despite the learned CIT(A) provided sufficient opportunities to the assessee, however, the assessee chose not to appear before the learned CIT(A) and not furnished relevant details. He strongly supported the order passed by the learned CIT(A) and the Assessing Officer.

7. We have heard the arguments of rival parties, perused the material available on record and gone through the orders of the authorities below. We find that though the learned CIT(A) granted several opportunities to the assessee to substantiate its cases, ultimately, the orders passed by him are an ex-parte order qua the assessee and the learned CIT(A) was indeed justified in dismissing the appeals of the assessee. However, keeping in view the overall facts and circumstances of the cases before us, to meet the ends of justice, therefore, we are of the opinion that by following the principles of natural justice, one opportunity should be given to the assessee to substantiate the cases before the learned CIT(A). In view of the above, the orders passed by the learned CIT(A) are hereby set aside and remit back the appeals to the file of the learned CIT(A) and direct him to adjudicate these appeals afresh on merit and in accordance with law. Before passing speaking orders, the learned CIT(A) shall provide adequate opportunity of being heard to the assessee. It is also directed that the assessee should not seek adjournment without there being a justified reason. Accordingly, all the

grounds raised by the assessee in these appeals are allowed for statistical purposes.

8. As a matter of assessee's lackadaisical approach in non-compliance and procedural delays before the authorities below, we deem it fit and appropriate to impose a cost on the assessee for an amount of ₹10,000 (Rupees Ten Thousand Only) for each appeal aggregating to ₹ 20,000 (Rupees Twenty Thousand Only) payable to the Maharashtra State Legal Services Authority and produce evidence of payment before the learned CIT(A). This cost underscores the importance of adhering to procedural requirements and timely compliance during assessment and appellate proceedings.

9. In the result, appeals filed by the assessee are allowed for statistical purposes, subject to the condition as stated in Para-8 above.

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