

IN THE INCOME TAX APPELLATE TRIBUNAL PANAJI BENCH  
PANAJI

BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER &  
SHRI G D PADMAHSHALI ACCOUNTANT MEMBER

I T A. Nos. 201/PAN/2023  
(A.Y. 2018-19 )

Sameer Manohar Fulari, Near Bank Of India,Keni Waddo,Mapusa Bardez, Noth Goa-403507 Goa.	Vs .	National Faceless Assessment Centre,NFAC,Delhi. .
PAN .No. AAOPF3440P		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

Assessee by	None(letter 20-01-25)
Revenue by	Mr.Narendra Reddy.Sr.DR

सुनवाई की तारीख/Date of Hearing	27.01.2025
घोषणा की तारीख/Date of Pronouncement	28.01.2025

**ORDER**

**PER PAVAN KUMAR GADALE, JM:**

The appeal is filed by the assessee against the order of National Faceless Appeal Centre (NFAC) Delhi / CIT(A) passed u/sec 144r.w.s 147 and u/sec 250 of the Act.

2. The brief facts of the case are that, the assessee is a individual and is engaged in the business. The Assessing Officer (AO) based on the information from ITBA data, found that the assessee has made cash deposits in the bank

account and the assessee has not filed the return of income and the Assessing Officer (A.O) has reason to believe that income has escaped and issued the notice u/sec148 of the Act and the assessee has submitted income computation declaring the profit @8% of Gross receipts of Rs.1,38,35,000/- u/sec 44AD of the Act and it was not accepted by the A.O. Further the notice u/sec 142(1) of the Act along with questionnaire was issued on various dates and there was no compliance. Whereas the A.O found that the assessee has made the cash deposits aggregating to Rs.1,07,34,000/- in the bank account in the F.Y.2017-18 and explanations were called to substantiate the deposits. Since, no explanations/details were filed, the AO considering the information available on record and has issued notice u/sec133(6) on the bank and called for the Bank statement of the assessee. The A.O has invoked the provisions of Sec.144 of the Act and made addition of cash deposits of Rs.1,07,34,030/- u/sec69A of the Act and the interest income of Rs.35,753/- and finally assessed the total income of Rs.1,07,69,783/- and passed the order u/sec 144 r.w.s147 of the Act dated 10.03.2023.

3. Aggrieved by the order, the assessee has filed an appeal before the CIT(A), whereas the CIT(A) has considered the grounds of appeal, statement of facts, findings of the AO and Form no 35 and find that the assessee has not paid the taxes and the provisions of section 249(4)(b) of the Act

are attracted and has issued letter and since there was no compliance by the assessee, the CIT(A) has dismissed the appeal as infructuous. Aggrieved by the order of the CIT(A), the assessee has filed an appeal before the Hon'ble Tribunal.

4. We heard the Ld.DR submissions and perused the material on record and none appeared on behalf of the assessee. Prima-facie the CIT(A) has passed the order considering the fact that there is no compliance to the letter nor appearance in spite of providing adequate opportunity of hearing. Therefore, the CIT(A) was of the opinion that the assessee is not interested and find that as per Form no 35, the assessee has not paid the taxes/advance tax and the provisions of section 249(4)(b) of the Act are attracted and the CIT(A) has issued letter dated 19.09.2023 referred at Page 3 Para4.4 of the order and there was no response and hence the CIT(A) has dismissed the appeal as infructuous. Whereas the assessee has raised grounds of appeal challenging the additions by the A.O and there could be various reasons for non appearance/ compliance which cannot be overruled. Further, in the case, where the return of income is not filed by the assessee and the case falling under section 249(4)(b) of the Act, there is a provision, provided that, the assessee can make an application to appellate authority explaining the good and sufficient reasons for claiming the exemption. Therefore, considering the facts and principles

of natural justice, we shall provide with one more opportunity to the assessee. Accordingly, we set aside the order of the CIT(A) and remit the entire disputed issues to the file of the CIT(A) as discussed above. And, we allow the grounds of appeal of the assessee for statistical purpose.

5. In the result, the appeal filed by assessee is allowed for statistical purposes.

Order pronounced in the open court on 28.01.2025.

Sd/-  
**(GD PADMAHSHALI)**  
**ACCOUNTANT MEMBER**

Panaji Dated: 28/01/2025

Sd/-  
**(PAVAN KUMAR GADALE)**  
**JUDICIAL MEMBER**

**Copy of the Order forwarded to:**

1. The Appellant,
2. The Respondent
3. The CIT(A)-
4. CIT
5. DR, ITAT,
6. Guard file.

//True Copy//

BY ORDER,  
(Asstt. Registrar)ITAT,  
Panaji

		Date	<u>Initial</u>	
1.	Draft dictated on			PS
2.	Draft placed before author			PS
3.	Draft proposed & placed before the second member			PS
4.	Draft discussed/approved by Second Member.			PS
5.	Approved Draft comes to the Sr.PS/PS			PS
6.	Kept for pronouncement on			
7.	File sent to the Bench Clerk			
8.	Date on which file goes to the AR			
9.	Date on which file goes to the Head Clerk.			
10.	Date of dispatch of Order.			
11.	Dictation Pad is enclosed			