

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH, NAGPUR

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

ITA no.272 and 273/Nag./2024
(Assessment Year : 2013-14 and 2014-15)

Mohan Pitale (HUF)
21, Deep Nagar No.2, Farishi Stop Appellant
Amravati 444 606 PAN – AAKHM2945J

v/s

Income Tax Officer Respondent
Ward-3, Amravati

Assessee by : Shri Kishore P. Dewani
Revenue by : Shri Abhay Y. Marathe

Date of Hearing – 29/01/2025		Date of Order – 30/01/2025
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ORDER

PER V. DURGA RAO, J.M.

The aforesaid appeal by the assessee is emanating from the impugned orders of even date 15/03/2024, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [“learned CIT(A)”], for the assessment year 2013-14 and 2014-15 respectively.

2. It is noted that the assessee in both the cases did not appear before the learned CIT(A) which resulted in dismissal of these appeals. The observations of the learned CIT(A) are as under:-

“In the present appellate proceedings, notices were issued to the appellant on 28/09/2022 and 22/02/2024. However, the appellant did not respond to any of these notices. A final opportunity of being heard was provided to the appellant vide notice issued on 07/03/2024 for providing it's

reply / submissions latest by 14/03/2024 in which it was clearly mentioned that in case of failure to reply, no further opportunity will be provided and the appeal will be decided based on available material on record.

However, again the appellant failed to reply to the said notice. Accordingly, the appellant has failed to substantiate his case and provide any plausible explanation or evidences to support his claims during the instant appellate proceedings. It is also observed from records that the AO has granted sufficient opportunities to the appellant for explaining its case and followed due procedure and principles of natural justice. However, the appellant did not avail any opportunity and remained non-responsive during the assessment proceedings. The appellant has also remained non-responsive during the instant appellate proceedings.

Considering the same and the detailed reasoning given by the AO in the impugned order, there is no cause of interference with the order passed by the AO under section 147 r.w.s. 144 of the Act dated 21/03/2022 for the AY 2013-14 in the case of the appellant and the same is confirmed.

However, it may be mentioned here that in Ground No. 6 of appeal, the appellant has mentioned that the AO has not granted credit of self-assessment tax paid at Rs.5150/- in the computation of income. The AO is directed to verify this aspect and if credit for the self-assessment tax paid by the appellant is not granted in the computation of income, then the same may be granted.

5. Considering the above, the addition of Rs.99,75,549/- made by the AO under section 69A of the Act in the impugned order is confirmed. Accordingly, all the grounds of appeal preferred by the appellant, except for Ground No. 6 relating to credit of self-assessment tax of Rs. 5150/-, are dismissed."

3. Before us, during the course of hearing, the learned Counsel, Shri Kishore P. Dewani, appearing for the assessee submitted that the assessee failed to appear before the learned CIT(A) and the appeals were dismissed. The learned Counsel filed Gist of Submissions, which are as under:-

"A) Appellate order is passed by CIT(A), National Faceless Appeal Centre on 15/03/2024 dismissing the appeal on account of no response. CIT(A) has dismissed the appeal without considering statement of facts wherein detailed explanation was available before him. Notices issued had remained to be responded on account of same having been not noticed and no physical notice was issued. Assessee is not well conversant with the digital medium of services of notice and thus has suffered ex-parte order before A.O. during Covid period as well as in the appeal proceedings.

B) Assessee humbly prays for grant of one more opportunity to explain the case. Assessee humbly prays that matter be restored to the file of Jurisdictional Assessing Officer in the interest of justice to justify as entire

cash deposits have been assessed to tax and matter pertains to old period of more than 10 years.

C) Assessee was commission agent for M/s Shree Surya Group carrying on activity of financial schemes. Deposits and withdrawals in the bank account were in the capacity of agent for receipt of nominal amount of commission. M/s Shree Surya Group has defaulted on the financial schemes resulting into filing of various criminal cases against the said group and Karta of assessee HUF is also impleaded as accused being agent of M/s Shree Surya Group. (P-12, 16 & 21)

D) A.O. has made addition of Rs.99,75,549/- and Rs. 15,60,675/- on account of deposit in bank account in Assessment Year 2013-14 and 2014-15 respectively.

E) Copy of bank statement of M/s Shree Surya Group is obtained from Police Authorities.

Assessment Year 2013-14:

(1) Bank account of M/s Shree Surya Group with Shikshak Sahakari Co-operative Bank Ltd. indicates that amount flown from the aforesaid company to the account of assessee is Rs.81.37 lacs. Other deposits and credits are again pertaining to transaction from family members during the course of activity of commission agent.

(P-24 & 26) (P-27 & 28)

Assessment Year 2014-15:

(1) Perusal of bank statement indicates that sum of Rs.5 lacs pertains to deposit of cheque and returned on account of fund insufficiency from M/s Shree Surya Group even for there being no deposit in the bank account sum of Rs.5 lacs is added at the hands of assessee being part of sum of Rs. 15,60,675/-. As per statement obtained from Police Authorities sum of Rs.3,60,000/- is received as loan from the bank account of M/s Shree Surya Group with Shikshak Sahakari Co-operative Bank Ltd. (P-29 to 31)"

4. Accordingly, the learned Counsel for the assessee prayed that the appeals be restored to the file of the Assessing Officer to enable the assessee to file details and/or furnish documents and evidences and argue the matters on merit.

2. On the other hand, the learned D.R., Shri Abhay Y. Marathe, appearing for the Revenue 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. We have heard both the parties, perused the materials available on record and gone through orders of the authorities below. We find that though the learned CIT(A) granted opportunities to the assessee to substantiate its case, ultimately, the orders passed by him are ex-parte orders. 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 impugned orders passed by the learned CIT(A) are set aside and remit back the matter to the file of the learned CIT(A) for both the A.Y. i.e., 2013-14 and 2014-15 and direct him to adjudicate the appeals afresh on merit 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. Accordingly, all the grounds raised by the assessee for A.Y. 2013-14 and 2014-15 are allowed for statistical purposes.

4. In the result, appeals for A.Y. 2013-14 and 2014-15 filed by the assessee are allowed for statistical purposes.

Order pronounced in the open Court on 30/01/2025

Sd/-
K.M. ROY
ACCOUNTANT MEMBER

Sd/-
V. DURGA RAO
JUDICIAL MEMBER

NAGPUR, DATED: 30/01/02025

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