



BEFORE HON'BLE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER
AND

SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER

ITA Nos. 071/PAN/2022

Assessment Year : 2017-18

The Asstt. Commissioner of Income Tax
Circle-1, Belgaum

..... *Appellant*

V/s

Rohit Parasharam Patil
1, Venugopal Road, Sulga,
Belgavi-591108.
PAN:BKRPP2410F

..... *Respondent*

Appearances

Assessee by: Mr Omkar Godbole ['Ld. AR']

Revenue by : Mr Narendra Reddy ['Ld. DR']

Date of conclusive Hearing : 27/01/2025

Date of Pronouncement : 28/01/2025

ORDER

PER G. D. PADMAHSHALI, AM;

The DIN & Order No. ITBA/NFAC/S/250/2022-23/1043556042(1) dt. 24/06/2022 passed u/s 250 of the Income-tax Act, 1961 [for short 'the Act'] by the National Faceless Appeal Centre, Delhi [for short 'Ld. NFAC'] which in turn ascended out of order of assessment passed u/s 144 of the Act for assessment year 2017-18 [for short 'AY'] is challenged by the Revenue under the present appeal instituted u/s 253(2) of the Act.



2. Briefly stated facts of the case records are that;

2.1 The assessee is an individual who e-filed his tax return declaring a total income of ₹16,54,250/- on 23/12/2017. The said return of the assessee was initially processed summarily u/s 143(1) of the Act. Subsequently by service of notice dt. 24/09/2018 issued u/s 143(2) of the Act the case of the assessee was subjected to complete scrutiny. Owing to assessee's effective failure to explain nature and source of cash deposits made by him into his various bank accounts maintained with State Bank of India [for short 'SBI'] and Corporation Bank [for short 'CB'], the resultant scrutiny assessment was completed by the Ld. AO u/s 144 of the Act with a bullet addition made u/s 69 of the Act whereby the entire amount of cash/SBN of ₹1,99,11,000/- deposited by the assessee were added to total income as his unexplained investment and assessed the same to tax u/s 115BBE of the Act. Aggrieved by the aforesaid addition the assessee filed first appeal which came to be allowed by the Ld. NFAC on the basis of appeal memo.

2.2 The Revenue aggrieved by the deletion of addition challenged the impugning the action of Ld. NFAC on merits as well as on the point of violation of provisions of rule 46A of the Income Tax Rules, 1962.

3 We have heard the rival parties and subject to rule 18 of ITAT Rules, 1963 perused material placed on record. We note that the case of the



assessee was selected for complete scrutiny to verify abnormal increase in cash deposits made by the respondent assessee during the year under consideration. During the course of assessment proceedings, the assessee not only failed to respond to any notices but also failed to substantiate nature & source of such cash available with him for deposits into his Current Account, Cash Credit Account and PPF account maintained with SBI and a Saving Bank Account maintained with CB. In the event the Ld. AO after putting the assessee to show cause notice u/s 144 of the Act completed the assessment to best of his judgement by treating entire cash deposits as the 'unexplained investment' of the respondent assessee u/s 69 of the Act and brought same to tax u/s 115BBE of the Act.

4 Though the matter travelled in first appeal before the Ld. NFAC, but the assessee was indifferent in not complying with notices and his failure in making written submission and furnishing any evidences in support of his claims etc., continued. In the absence of any written submission, explanation and evidence brought by the assessee, the Ld. NFAC perfunctorily proceeded and allowed the appeal merely on the basis of statement of facts narrated in appeal memo. This unceremonious action in allowing the appeal of assessee the Ld. NFAC ostensibly not only failed to carrying out necessary enquiries but also failed to ascertain the correctness of unsupported claims made in the statement of facts. We also note that, in



arriving the impugned adjudication, the Ld. NFAC did also fail to provide clearly the point of determination, his independent findings and reasoning in reversing the impugned additions. The impugned adjudication in our view is therefore inconsonance with provision of s/s (6) of section 250 of the Act, thus deserving to be set-aside to meet the end of justice.

5 We also note that, in the evince of restriction placed by 251(1)(a) of the Act, the Ld. NFAC had culminate the proceedings *ex-parte*. However, we are heedful to quote that the restriction placed by clause (a) of sub-section (1) of section 251 of the Act which obligates Ld. NFAC to adjudicate the issue either by confirming or annulling the addition or reducing or enhancing the addition made by the assessing officer without remanding the matter back to Ld. AO. While exercising the jurisdiction u/s 251(1)(a) of the Act the Ld. NFAC however invariably is required to; **(a) state point of determination, (b) its decision thereon and (c) clear reasons therefore** in terms of section 250(6) of the Act.

6 *Au contraire* in the instant case, we find that, the Ld. NFAC without there being any verification either independently by him or by remand has unfoundedly reversed the additions utterly on the basis of assessee's narration of facts claimed in the appeal memo. The impugned adjudication thus not only suffered from compliance of s/s (6) of section 250 of the Act



but merely based upon thin ice of statement of facts narrated in appeal memo, which were unsupported by any evidence therefore cannot be sustained in law. For the aforesaid reasons, without commenting on merits of the case, we deem it fit to set-aside the impugned order and remand the matter back to the file of Ld. NFAC with a direction to deal therewith *de-novo* after according three effective opportunities to the respondent assessee and pass a speaking order strictly in terms of section 250(6) of the Act. Needless to state that, on this remand the Ld. NFAC shall u/r 46A (supra) examine and decide either to admit or reject the evidences/claim first and then proceed to adjudicate the matter in the manner subscribed by s/s (6) of section 250 of the Act, which mandates the Ld. FAA to state points for its determination, decision thereon and reason for such decision while disposing of the appeal instituted before it u/s 246A of the Act. Ordered accordingly. The grounds of appeal stands accordingly partly allowed.

7 The appeal in result is allowed for statistical purposes.

In terms of rule 34 of ITAT Rules, the order pronounced in the open court on date mentioned herein before.

-S/d-

**PAVAN KUMAR GADALE
JUDICIAL MEMBER**

Panaji/Dt: 28th January, 2025

Copy of the Order forwarded to :

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|-------------------|-----------------------------------|------------------------------|
| 1. The Appellant. | 2. The Respondent. | 3. The CIT(A)/NFAC Concerned |
| 4. PCIT Concerned | 5. DR, ITAT, Panaji Bench, Panaji | 6. Guard File |

-S/d-

**G. D. PADMAHSHALI
ACCOUNTANT MEMBER**

By Order,
Sr. Private Secretary / AR ITAT, Panaji.