

IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCH "A", PUNE

BEFORE SHRI MANISH BORAD, ACCOUNTANT MEMBER  
AND  
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA Nos.1813 & 1814/PUN/2024  
निर्धारण वर्ष / Assessment Year : 2011-12

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|---|-----|-----------------------|
| Mahesh Vishwanath Bhoir,<br>3 <sup>rd</sup> Floor, Bhoir Building,<br>Keshav Nagar, Chinchwad,<br>Pune- 410033.<br>PAN : AIHPB9631K | Vs. | ITO, Ward-9(1), Pune. |
| Appellant   |     | Respondent            |

Assessee by : None  
Revenue by : Shri Ramnath P. Murkude  
Date of hearing : 29.01.2025  
Date of pronouncement : 10.02.2025

**आदेश / ORDER**

**PER MANISH BORAD, AM:**

These appeals filed at the instance of assessee are directed against the separate orders of Ld. CIT(A)/NFAC dated 10.07.2024 which are arising out of the assessment order framed on 29.01.2014 u/s 144 and penalty order framed on 17.07.2024 u/s 271(1)(c) of the Act for Assessment Year 2011-12 by the ITO, Ward-9(1), Pune respectively.

2. When the cases were called, none appeared on behalf of the assessee. However, paper book along with application for admission of additional evidence has been filed and *prime-facie* the records indicate that the assessment order is *ex-parte* u/s 144 and in the impugned proceedings assessee failed to succeed on account of delay in filing of the appeals, we therefore proceed to adjudicate the appeals with the able assistance of Ld. Departmental Representative and available records.

3. We have heard Ld. Departmental Representative and perused the records placed before us. We observe that the assessee is an individual and filed his return of income for Assessment Year 2011-12 on 09.12.2011 declaring income of Rs.2,66,400/-. Thereafter, the case selected through CASS by issuing of valid notice u/s 143(2) dated 31.07.2012 for the purpose of examining the taxability of sale of property as reported in AIR. Assessee failed to appear to the notices issued u/s 143(2) and 142(1) and various others notices which finally left Ld. Assessing Officer with no option except to frame best judgement assessment making several additions and assessing income of Rs.71,46,830/-. The Assessing Officer also

initiated penalty proceedings u/s 271(1)(c) of the Act by issuing notice u/s 274 r.w.s. 271(1)(c) on 29.01.2014 but again assessee failed to appear resulting into levy of penalty of Rs.13,80,200/-.

4. Against the additions made by Ld. Assessing Officer, assessee preferred appeal before Ld. CIT(A)/NFAC against the additions made by the Assessing Officer and also the levy of penalty u/s 271(1)(c) of the Act. The appeal was barred by limitation of 1285 days. Reason for the delay as stated in the affidavit placed on record was on account of non-appearance of the tax consultant who filed the return and who was taking care of the taxation matters of the assessee. We also notice that during the course of appellate proceedings against the quantum addition as well as against the levy of penalty u/s 271(1)(c) of the Act, the assessee has filed various details before Ld. CIT(A)/NFAC including the additional evidences to which remand report was also called for. During the course of appellate proceedings, Ld. CIT(A)/NFAC called for details which were duly filed and there was no show-cause notice regarding delay in filing of the appeal. But at the end of the appellate proceedings,

Ld. CIT(A)/NFAC did not condone the delay and also did not deal with all the details filed before him by the assessee.

5. We have carefully gone through the affidavit filed by the tax consultant and also the paper book furnished by the assessee running into 50 pages for ITA No.1813/PUN/2024 and 20 pages for ITA No.1814/PUN/2024 and find that the assessee certainly made delay in filing of the appeal but there was reasonable cause for delay and in view of the judgement of the Hon'ble Apex Court in the case of Collector Land Acquisition vs. MST Katiji (1987) 167 ITR 471 (SC), we find that assessee would not have gained anything by delay in filing the appeal and therefore condone the delay of 1285 days in filing of the appeal before Ld. CIT(A)/NFAC both against the quantum addition as well as penalty levied u/s 271(1)(c) of the Act.

6. Further, as there is no finding on merits of the case and the appeal of the assessee has been dismissed only on the ground of limitation, we deem it proper to restore the issues raised on merits in the instant two appeals i.e. quantum addition and levy of penalty u/s 271(1)(c) to the file of Ld. CIT(A)/NFAC to adjudicate the issues in

the light of the provisions of section 250 of the Act after affording reasonable opportunity of being heard to the assessee and decide in accordance with law. The assessee is also directed to remain vigilant and not to take adjournment unless otherwise required for reasonable cause. Thus, grounds of appeal raised by the assessee in both the appeals are allowed for statistical purposes.

7. In the result, both the above captioned appeals of the assessee are allowed for statistical purposes.

Order pronounced on 10<sup>th</sup> day of February, 2025.

**Sd/-**  
**(VINAY BHAMORE)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(MANISH BORAD)**  
**ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated : 10<sup>th</sup> February, 2025.

*Sujeet*

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "A" बेंच,  
पुणे / DR, ITAT, "A" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.