

**IN THE INCOME TAX APPELLATE TRIBUNAL**

**NAGPUR BENCH, NAGPUR**

**BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER**

**SMC MATTER**

**ITA no.298, 299 & 300/Nag./2024**

**(Assessment Year : 2009-10, 2010-11 & 2011-12)**

Raju V. Mahakalkar  
Malgujar Pura, Near Vithal Mandir  
Wardha 442 001 PAN – AMAPM1989L

..... Appellant

v/s

Asstt. Commissioner of Income Tax  
Central circle-2(1), Nagpur

..... Respondent

Assessee by : None

Revenue by : Shri Sandipkumar Salunke

Date of Hearing – 10/02/2025

Date of Order – 25/02/2025

**ORDER**

These appeals by the assessee are emanating from impugned order dated 08/02/2024, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*learned CIT(A)*], for the assessment year 2009-10, 2010-11 and 2011-12.

2. When these cases were called for hearing, none appeared on behalf of the assessee appellant. Even there is no application for adjournment on record.

3. I have heard the learned Departmental Representative. While going through the assessment order passed by the Assessing Officer, despite

Assessing Officer granting several opportunities to the assessee to file relevant document, the assessee chose not to respond to the queries raised by the Assessing Officer. The Assessing Officer rejected all the claims so made the assessee. Even before the first appellate authority, during the proceedings, the assessee neither attended in response to hearing notices nor filed any written submissions. The findings of the learned CIT(A) for the assessment year 2009-10 at Page-5 of his order are extracted below for reference in view of the assessee's negligent attitude to the proceedings.

*"Further, the AO has made an addition of Rs. 21,30,000/- on account of income from undisclosed sources. The appellant has failed to provide cash book reflecting the receipt of cash of Rs. 21.30,000/- and subsequent repayment of the same. Further, the appellant during assessment proceedings has conveniently not filed the particulars of the customer to whom the transaction belong to. Further, the appellant has not filed any documentary evidence in support of his contention that the transaction pertains to the specific project and did not materialize as the project was cancelled. Accordingly the AO has made assessment by giving adequate justification for the same. Further, during the appellate proceedings before me, the appellant neither attended in response to hearing notices nor filed any written submission. Accordingly, the matter is being decided on basis of material on record. Therefore, the grounds of appeal are hereby dismissed.*

2. The facts and circumstances are similar to the other assessment years as well, except variation in figures.

3. I find that though the learned CIT(A) granted opportunities to the assessee to substantiate its case, ultimately, the impugned orders passed by him are ex-parte orders for all the years under consideration. Therefore, I am 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 this view of the matter, the impugned orders passed

by the learned CIT(A) for the assessment year 2009-10, 2010-11 and 2011-12 are set aside and remit back the matters to the file of the learned CIT(A) and direct him to adjudicate the said 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 in these appeals for all the years under consideration are allowed for statistical purposes.

4. In the result, assessee's appeals for 2009-10, 2010-11 and 2011-12 are allowed for statistical purposes.

Order pronounced in the open Court on 25/02/2025

**NAGPUR, DATED: 25/02/2025**

**Sd/-  
V. DURGA RAO  
JUDICIAL MEMBER**

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