



आयकर अपीलीय अधिकरण "एस एम सी" न्यायपीठ पुणेमें।
IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCHES "SMC" :: PUNE

BEFORE DR.MANISH BORAD, ACCOUNTANT MEMBER
AND
MS.ASTHA CHANDRA, JUDICIAL MEMBER

आयकर अपील सं. / ITA Nos.2876 & 2877/PUN/2024
निर्धारण वर्ष / Assessment Years: 2009-10 & 201-12

Laxmi Babu Debnath, Level 3, Riverside Business Bay, Wellesley Road, Near RTO, Pune – 411001. PAN: ACPYD2630F	V s	The Income Tax Officer, Ward-7(1), Pune.
Appellant/ Assessee		Respondent / Revenue

Assessee by	Shri Neelesh Khandelwal – AR
Revenue by	Shri Abhishek Meshtram - Addl.CIT(DR)
Date of hearing	10/02/2025
Date of pronouncement	20/02/2025

आदेश/ ORDER

PER DR. MANISH BORAD, AM:

These two appeals filed by the assessee are against the
separate orders of Id.Commissioner of Income



Tax(Appeals)[NFAC] for Assessment Years 2009-10 and 2011-12; both dated 21.10.2024 passed u/sec.250 of the Income tax Act, 1961. Since the issue involved is common, both these appeals were heard together and decided by the common order. The Assessee for A.Y.2009-10 has raised the following grounds of appeal :

“1. On facts and circumstances prevailing in the case and as per the provisions of the law, the Ld. Commissioner of Income-Tax (Appeals) (Ld. CIT(A)) erred in passing an order without condoning the delay in filing of appeal before the Ld. CIT(A) and not granting an opportunity of being heard to the Appellant. The Appellant be granted just and proper relief in this respect.

2. On facts and circumstances prevailing in the case and as per provisions & scheme of the Income-tax Act, 1961 ('the Act') it be held that the order passed by the First Appellate Authority without considering the proceedings already done in physical hearing is unwarranted, unjustified and contrary to the provisions of the Act and facts prevailing in the case. The order passed be set aside. The Appellant be granted just and proper relief in this respect.



3. *Without prejudice to Ground no. 1 and on facts and circumstances prevailing in the case and as per provisions and scheme of the Act it be held that the assessment Order passed u/s 144 r.w.s. 147 of the Act is bad in law and should be set aside. The Appellant be granted just and proper relief.*

4. *Without prejudice to Ground no. 1 to 2 and on facts and circumstances prevailing in the case and as per provisions of the Act it be held that, the addition of Rs.7,70,000/- made by the AO on account of unexplained cash deposits is improper, unjustified and not in accordance with the provisions of law and rules framed there under. The addition so made be deleted. The appellant be granted just and proper relief in this respect.*

5. *The Appellant prays to be allowed to add, amend, modify, rectify, delete, and raise any grounds of appeal at the time of hearing.”*

2. At the outset of hearing, ld.Counsel for the Assessee submitted that there was a delay of 86 days in filing of both the appeals before the ld.CIT(A) which was on account of bonafide reasons. The Assessee even filed various documents on the E-portal including additional evidences. However, ld.CIT(A)



without dwelling into the merits of the case, has dismissed the appeal in *limine* by not condoning the delay. He prayed for providing one more opportunity for going before the ld.CIT(A)/NFAC.

3. On the other hand, ld.DR for the Revenue was fair enough in not opposing this request of ld.Counsel for the Assessee.

4. We have heard rival contentions and perused the record placed before us. We observe that the assessee who is the individual was subjected to reassessment proceedings under section 147 of the Act on account of information about cash deposit of Rs.7,70,000/- during F.Y.2008-09 and cash deposit of Rs.18,60,000/- during F.Y.2010-11 relevant to A.Y.2009-10 and A.Y.2011-12 respectively.

4.1 However, even after being served valid notice, assessee failed to make proper compliance before ld.Assessing Officer



proceeded to pass based judgments assessment under section 144 r.w.s 147 of the Act resulting into the impugned additions.

5. Aggrieved with the addition made by the Id.Assessing Officer. Assessee preferred appeal before the Id.CIT(A). There was a delay of 86 days in filing of appeal for both the years for which reasons were filed for condoning the delay. However, Id.CIT(A) did not condone the delay. We, however on considering the fact that assessee has filed various additional evidences under Rule 46A of the Income Tax Rules for explaining the source of alleged cash deposit and has also provided the reasons for delay in filing the appeal before the Id.CIT(A), in the interest of justice deem proper to provide one more opportunity to Assessee. We, accordingly, restore the issues raised on merit in the instant two appeals to Id.CIT(A) who shall afford reasonable opportunity to the assessee and will also consider the additional evidences filed by the assessee and then



decide in accordance with law by way of passing a speaking order as contemplated in section 250(6) of the Act. The Id.CIT(A) may call for Remand Report from the Jurisdictional Assessing Officer for admitting the additional evidence. Assessee is also directed to remain vigilant and not to seek adjournment unless otherwise required. Accordingly, grounds of appeals by the Assessee raised in ITA No.2876/PUN/2024 & ITA No.2877/PUN/2024 are allowed for statistical purpose.

6. In the result, both the appeals of the assessee are allowed for statistical purpose.

Order pronounced in the open Court on 20th February, 2025.

Sd/-
(ASTHA CHANDRA)
JUDICIAL MEMBER

Sd/-
(DR. MANISH BORAD)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 20th Feb, 2025/ SGR*



आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.
5. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, "एस एम सी" बेंच, पुणे / DR, ITAT, "SMC" Bench, Pune.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

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