

**IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "SMC", PUNE**

**BEFORE SHRI R. K. PANDA, VICE PRESIDENT
AND
MS. ASTHA CHANDRA, JUDICIAL MEMBER**

**ITA No.191/PUN/2025
Assessment Year : 2013-14**

Sanjay Balasaheb Shelake, 40B, Pratiksha, Abaynagar, Sangli – 416416.	Vs.	The Commissioner of Income Tax(Appeals)
PAN: DRQPS8826C		
(Appellant)		(Respondent)

Assessee by : Shri Umeshkumar M Mali
Department by : Shri Ambarnath Bhimrao Khule
(through virtual)

Date of hearing : 03-03-2025
Date of pronouncement : 05-03-2025

ORDER

PER R. K. PANDA, VP :

This appeal filed by the assessee is directed against the *ex-parte* order dated 23.08.2024 of the Ld. CIT(A) / NFAC, Delhi relating to assessment year 2013-14.

2. There is a delay of 83 days in filing of this appeal before the Tribunal, for which the assessee has filed a condonation application along with an affidavit explaining the reasons for such delay. After considering the contents of the condonation application filed along with the affidavit and after hearing the Ld. DR, the delay in filing of the appeal is condoned and the appeal is admitted for adjudication.

3. Although a number of grounds have been raised by the assessee, however, these all relate to the order of the Ld. CIT(A) / NFAC in confirming the various additions made by the Assessing Officer.

4. Facts of the case, in brief, are that the assessee is an individual and has not filed his return of income. On the basis of information available with the Department that the assessee has made cash deposit of Rs.18,62,590/- for the impugned assessment year, AO has reason to believe that the assessee has income for the impugned assessment year which has escaped assessment. The AO therefore, after recording reasons, issued a notice under section 148 of the Act, dated 29.03.2021 which was served on the assessee.

4.1 Subsequently, certain information was also called for by issuing notice u/s 142(1) of the Act, on 15.12.2021. Thereafter also, on 24.01.2022 again a notice u/s.142(1) was issued to the assessee requiring assessee to comply with the previously issued notice dated 15.12.2021. However, there was no compliance from the side of the assessee. The Assessing Officer therefore proceeded to determine the total income of the assessee on the basis of material available on record. He noted that the assessee during the year under consideration has made cash deposit amounting of Rs.18,62,590/- in the Bank. In absence of any submission from the side of the assessee, the AO made addition of Rs.18,62,590/- being cash deposited in bank account treating the same as unexplained. The Assessing Officer accordingly determined the total income of the assessee at Rs.18,62,590/-.

5. Since despite service of notice the assessee did not appear before the Ld. CIT(A) / NFAC, the Ld. CIT(A) / NFAC in the *ex-parte* order passed by him dismissed the appeal for want of prosecution.

6. Aggrieved with such order of the Ld. CIT(A) / NFAC, the assessee is in appeal before the Tribunal by raising the following grounds:

“1) Ground No.1

On the facts and circumstances of the case and in Law, the Ld.AO erred in proceeding with reassessment/assessment u/s 147 of the Income Tax Act.

1.1) Learned AO had Reopened the assessment merely on the basis of borrowed satisfaction and without verifying the actual documents.

Prayer

I pray that learned AO reopened assessment merely on the basis of borrowed satisfaction hence The order passed needs to be quashed.

2) Ground No.2

On the facts and circumstances of the case and in law, the order passed by Ld.AO u/s 147 r.w.s 144B and addition U/s 68 of Rs.18,62,590/- is bad in law as much as the order has been passed without following mandate of law.

2.1) Addition made U/s 68 on the basis invalid Show cause notice as bank passbook is not in books of accounts.

Prayer

I pray that learned AO made addition on the basis of invalid show cause notice, hence The addition needs to be quashed.

3) Ground No.4- The appellant craves leave to add/amend or alter any of the above grounds of appeal.”

7. The Id.Authorised Representative for the Assessee submitted that assessee’s appeal was dismissed by the Id.CIT(A)/NFAC for non-compliance but he has not decided the appeal on merit as per the Provision of section 250(6) of the Act. He,

accordingly submitted that the matter may be restored to the file of ld.CIT(A)/NFAC for fresh adjudication.

7.1 Ld.DR on the other hand heavily relied on the order of AO and ld.CIT(A)/NFAC.

8. We have heard both the parties and perused the orders of the Assessing Officer and the Ld. CIT(A) / NFAC. It is an admitted fact that despite number of opportunities granted by the Ld. CIT(A) / NFAC, the assessee did not appear before him for which he passed the *ex-parte* order dismissing the appeal for want of prosecution. However, he has not followed the provisions of section 250(6) of the Act, according to which the order of the Ld. CIT(A) / NFAC disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reason for the decision. We find in the instant case, the Ld.CIT(A) / NFAC has dismissed the appeal simply for want of prosecution and he has not decided the issue on merit. We, therefore, deem it proper to restore the issue to the file of the Ld. CIT(A) / NFAC with a direction to grant one last opportunity to the assessee to substantiate his case by filing the requisite details and decide the issue as per fact and law keeping in mind the provisions of section 250(6) of the Act. The assessee is also hereby directed to make his submissions, if any, before the Ld. CIT(A) / NFAC on the appointed date without seeking any adjournment under any pretext, failing which the Ld. CIT(A) / NFAC is at liberty to pass appropriate order as per law. We hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

9. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 5th March, 2025.

Sd/-
(ASTHA CHANDRA)
JUDICIAL MEMBER

Sd/-
(R. K. PANDA)
VICE PRESIDENT

पुणे Pune; दिनांक Dated : 5th March, 2025 /
SGR

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent
3. The concerned Pr.CIT, Pune
4. DR, ITAT, 'SMC' Bench, Pune
5. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

// True Copy //

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