



IN THE INCOME TAX APPELLATE TRIBUNAL, PANAJI BENCH, PANAJI



BEFORE HON'BLE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER

AND

SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER

ITA Nos. 007/PAN/2025

Assessment Year : 2017-18

Laxmikant Gurappa Tyapi
302, Maruthi Devara Gudi Oni,
Artagal, Belgaum, Dist. Belgaum
PAN : AEUPT2660K

..... Applicant

V/s

Income Tax Officer,
Ward-5, Belgaum.

..... Respondent

Appearances

Assessee by : None

Revenue by : Mr S Manikandan ['Ld. DR']

सुनवाई की तारीख / Date of conclusive Hearing : 03/03/2025

घोषणा की तारीख / Date of Pronouncement : 04/03/2025

ORDER

PER G. D. PADMAHSHALI;

The captioned appeal of the assessee impugns DIN & Order ITBA/NFAC/S/250/2024-25/1068116925(1) dt. 29/08/2024 passed by the National Faceless Appeal Centre, Delhi ['Ld. NFAC' hereinafter] u/s 250 of the Income-tax Act, 1961 ['the Act' hereinafter] which in turn arisen out of order of assessment dt. 18/11/2022 passed u/s 143(3) of the Act by the National Faceless e-Asstt Centre ['Ld. AO' hereinafter] anent to assessment year 2017-18 ['AY' hereinafter].



2. The case was called for hearing twice; none appeared at the behest of the appellant. Upon the request from Revenue and having regard to limited subject of dismissal of first appeal *in limine*, we deem it fit to proceed *ex-parte* in the absence of appellant u/r 24 of ITAT-Rules, 1963. Recording the same we proceeded accordingly after rejecting the adjournment application filed by the assessee.

3. From the submission of the Revenue and perusal of records it revealed that; the assessee is an individual who filed his return of income on 20/03/2018 declaring NIL taxable income with an agricultural income of ₹3,02,272/-. The case of the assessee was selected for scrutiny and in the event of failure to adduce credible evidence and offer satisfactory explanation regarding nature & source special bank note [‘SBN’ hereinafter] of ₹13,56,500/- deposited into his bank accounts during the course of demonetisation, the Ld. AO treated the same as unexplained money and accordingly assessed the same in the hands of the assessee u/s 69A r.w.s. 115BBE of the Act. The assessee assailed the aforesaid addition in appeal before the Ld. NFAC, which came to be dismissed *in-limine* on the reasons that the defect in Form No 36 remained unrectified by the assessee.



4. Aggrieved assessee came in present appeal challenging the action of Ld. NFAC for violation of principle of natural justice.

5. Without touching merits of the case; we have heard the rival party's submission and subject to rule 18 of ITAT-Rules 1963 perused material placed on record. We note that, order of assessment in this case was passed in relation to **AY 2017-18** on 18/11/2019 and an appeal thereagainst u/s 246A of the Act in Form No 35 was filed on 19/12/2019. The said Form No 35 however inadvertently mentioned the applicable AY as '2016-17' instead of AY 2017-18. The Ld. NFAC intimated the aforestated defect to the appellant assessee for rectification but in the event of failure on the part of the appellant to rectify the same, the Ld. NFAC without further notice dismissed the appeal of the appellant *in-limine* for the stated reasons.

6. We understand that, the appellate forums are created by statute only to rest disputes conclusively and not to accelerate them for higher forum perfunctorily. Having regard to present facts and circumstances of the case & placing reliance *Raheem Shah & ANR Vs Govind Singh & Ors* [CIVIL APPEAL NO. 4628 OF 2023 (SC)], we are heedful to state that, while dealing with tax litigation, the Ld.



NFAC being a quasi-judicial authority was expected to adopt justice-oriented approach rather resorting to iron-cast technical one whereby the Ld. NFAC dismissed the appeal *in limine* for a trivial typographical error in mentioning the correct AY which could have been rectified by the appellant but for fair & reasonable opportunity. Since the first appellate proceedings could hardly deal with the right & liabilities of rival parties, we deem it fit to set-aside the impugned order and remit the file back to the Ld. NFAC at the stage of its institution with a direction to accord reasonable opportunity to the appellant to rectify the Form No 35 and then deal with the dispute on merits *de-novo* in accordance with applicable law and pass a speaking order in terms of section 250(6) of the Act.

7. The appeal in result stands allowed for statistical purposes.

In terms of rule 34 of ITAT Rules, 1963 the order pronounced in the open court on date mentioned herein before.

-S/d-

PAVAN KUMAR GADALE
JUDICIAL MEMBER

Panaji/Dt: 04th March, 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.