



**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. 274/PAN/2024**

**Assessment Year : 2020-21**

The Gokak Taluka Agricultural  
Produced Co-op. Marketing Society Ltd.  
APMC Yard, Gokak, Dist. Belgaum  
PAN : AAAJT1462H

*..... Applicant*

V/s

Deputy Commissioner of Income Tax,  
Circle-1, Belgaum.

*..... Respondent*

**Appearances**

Assessee by : Mr S Gadadi ['Ld. AR']

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/250/2024-25/1065710654(1) dt. 18/06/2024 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. 22/09/2022 passed u/s 143(3) of the Act by the National Faceless e-Asstt Centre ['Ld. AO' hereinafter] anent to assessment year 2020-21 ['AY' hereinafter].



2. At the outset, after vouching sufficiency of reasons beyond undeliberate delay of 72 days in instituting present appeal, we after placing reliance on '*Vijay Vishin Meghani Vs. DCIT & Anr*' reported 398 ITR 250 (Bom) and '*Collector, Land Acquisition, Anantnag and Anr. Vs Ms Katiji and Others*' reported at 167 ITR 5 (SC), in the larger interest of justice deem it fit to condone the same and proceed to adjudicate the dispute. Recording the same, advanced accordingly.

3. Without touching the merits and grounds of the appeal, Ld. AR submitted that, the impugned order has suffered from (a) violation of principle of natural justice and (b) from the compliance of s/s (6) of section 250 of the Act. The twofold grievance of the assessee in the present appeal is that, except the receipt of notice acknowledging the institution of appeal the assessee was neither served any notices nor the impugned order by the Ld. NFAC. Adverting to paper-book [submitted during the course of hearing] it is averred that; all three notices of hearing were sent to email address not belonging assessee and no notice of hearing was received on the registered email address quoted in Form No 35. Therefore, the said proceedings were conducted in sheer violation of principle of natural justice thus rendered itself irregular.



Further referring para 5 of the impugned order it is pleaded that, in the absence of assessee and written statement the Ld. NFAC dismissed the appeal in-limine without adjudicating the issue on merits thus suffered from s/s (6) of section 250 of the Act. *Per contra*, the Ld. DR could hardly dispute the afforested facts and object the request of assessee for remand.

4. Without touching the merits of the case, we have heard both the sides on former limited ground and carefully examined the facts of the case. Admittedly, the appellant could not cause any appearance before the first appellate authority which led to *ex-parte* dismissal of the appeal by the Ld. NFAC. From the screenshots submitted on record it is evident that during the course of first appellate proceedings the Ld. NFAC issued three notices one after other vide notice dt. 15/04/2024, 25/04/2024 & 04/06/2024 through email on [sureshsholapurmath@yahoo.co.in](mailto:sureshsholapurmath@yahoo.co.in) as against the email address notified in Form No 35 for receipt of communication i.e. [tapcms.gokak@gmail.com](mailto:tapcms.gokak@gmail.com). There is hardly any deprecative material placed on record by the respondent to suggest the failure of appellant to comply with former three notices but for none-receipt of notices.



Therefore, having considered the facts of the case holistically, we are satisfied that the appellant for stated reasons was prevented from prosecuting the appeal, hence in the larger interest of justice we deem it proper to set-aside the impugned order on this score for its remittance to the file of Ld. NFAC for *de-novo* adjudication in accordance with law. Ordered Accordingly.

**5.** Insofar *ex-parte* dismissal of appeal without dealing with the merit of issue is concerned, we note that; the restriction placed by clause (a) of sub-section (1) of section 251 of the Act obligates the Ld. NFAC to adjudicate the issue conclusively either by confirming or annulling the addition or reducing or enhancing the addition made by the assessing officer without the right to remand the matter back. However, while exercising the jurisdiction u/s 251(1)(a) of the Act, the Ld. NFAC was invariably required to state subject matter or point of determination, its decision thereon and clear reasons therefore in terms of section 250(6) of the Act. A plain reading of section 250 of the Act reveals that, it is incumbent upon the Ld. NFAC to make necessary enquiries before passing an order and while doing so it demands it to decide each of the issue/ground on merits even in *ex-parte* proceedings. In view of Section



250(4) r.w.s. 250(6) of the Act, Ld. NFAC is powerless to dismiss any appeal for non-prosecution without dealing with merits of the case. This proposition finds fortified in the decision of '*CIT Vs Premkumar Arjundas*' [2016, 240 Taxman 133 (Bom)].

6. In the instant case, *per contra* we find that the Ld. NFAC dismissed the appeal of the appellant in the event of non-prosecution but without adjudicating it in terms of sub-section (6) of section 250 of the Act. Thus, the impugned adjudication left the rights & liabilities of the rival parties effectively undetermined. This adjudication in our considered view is inconsonance with s/s (6) of section 250 of the Act, therefore deserving to be set-aside on this score as well for de-novo adjudication. *Ergo* ordered accordingly.

**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**

**-S/d-**  
**G. D. PADMAHSHALI**  
**ACCOUNTANT 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                |

By Order,  
Sr. Private Secretary / AR ITAT, Panaji.