



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. 275/PAN/2024

Assessment Year : 2016-17

Cheryl Savia Indira Lobo

H.No. E-100, Pobha Vado,

Calangute, Bardez, North Goa, Goa

PAN : ACBPL9307J

..... *Appellant*

V/s

Asstt. Commissioner of Income Tax,

Circle-2(1) Panaji, Goa.

..... *Respondent*

Appearances

Assessee by : Mr Vinod Totekar ['Ld. AR']

Revenue by : Smt Nazeera Mohammad ['Ld. DR']

सुनवाई की तारीख / Date of conclusive Hearing : 11/03/2025

घोषणा की तारीख / Date of Pronouncement : 12/03/2025

ORDER

PER G. D. PADMAHSHALI:

The captioned appeal of the assessee impugns DIN & Order ITBA/NFAC/S/250/2024-25/1064290058(1) dt. 23/04/2024 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. 27/12/2018 passed u/s 143(3) of the Act by the Asstt. Commission of Income Tax Circle-2(1), Panaji Goa ['Ld. AO' hereinafter] anent to assessment year 2016-17 ['AY' hereinafter].



2. After vouching the sufficiency of reasons explained, we are satisfied that the appellant was for sufficient cause prevented from filing present appeal against the impugned order and the case of the assessee falls within the parameter set by Hon'ble Courts in '*Vijay Vishin Meghani Vs. DCIT & Anr*' [2017, 398 ITR 250 (Bom)] and '*Collector, Land Acquisition, Anantnag and Anr. Vs Ms Katiji and Others*' [1987, 167 ITR 5 (SC)]. In view thereof the undeliberate delay of 135 days occurred in instituting present appeal after placing reliance on former judicial precedents, in the larger interest of justice we condone the delay and advanced for adjudication.

3. **Tersely stated facts of the case are that;** the assessee is an individual who for the year under consideration filed return on 14/10/2016 declaring total income of ₹25,08,240/-. The return of income was selected for scrutiny and the consequential assessment was completed by bringing to tax entire amount of consideration of ₹25.00Lakhs received against extinguishment of tenancy right as the income of the assessee under the head income of other sources as against the assessee claim for capital gain. The resultant exemption claimed by the assessee u/s 54E of the Act also turn down tenaciously.



4. Aggrieved by the assessment the assessee instituted an appeal thereagainst before Ld. NFAC, which also came to be dismissed *ex-parte* owing to non-prosecution and in the absence of evidences.

5. Aggrieved by impugned *ex-parte* order, the assessee came in present appeals challenging the proceedings first on the ground of violation of principle of nature justice later on its merits.

6. Without touching grounds raised in appeal memo and merits of the case; we have heard the rival parties on the limited issue of non-prosecution & resultant *ex-parte* dismissal of first appeals and subject to rule 18 of ITAT-Rules 1963 perused material placed on record, considered the facts in the light of settled legal position.

7. We note that, while exercising jurisdiction u/s 251(1)(a) of the Act, Ld. NFAC is required to state point of determination, decision thereon and reasons therefore in terms of section 250(6) of the Act. A plain reading of above section reveals that, it was incumbent upon Ld. NFAC to make necessary enquiries before passing an order and while doing so it necessitates to deal with each issue/ground on merits even in *ex-parte* proceedings.



8. *Per contra* it is found in the instant case that, in the event of non-prosecution the Ld. NFAC dismissed the appeal simply by reiterating the findings of Ld. AO but without adjudicating in terms of s/s (6) of section 250 of the Act. The impugned adjudication since inconsonance with above provision (*supra*), therefore we find no reasons in not setting-aside the impugned order at the stage of its institution with a direction for *de-novo* adjudication in accordance with law and pass a speaking order. Ordered Accordingly.

9. 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: 12th 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.