



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. 307/PAN/2024

Assessment Year : 2020-21

Sadashiv B Dalawai

At Post Shiragur

Tal.: Raibag, Dist. Belgaum

PAN : BDRPD7066A

..... Applicant

V/s

Income Tax Officer/ITD,

Belgaum/New Delhi.

..... Respondent

Appearances

Assessee by : Mrs Viramma Muralan ['Ld. AR']

Revenue by : Mr M Satish ['Ld. DR']

सुनवाई की तारीख / Date of conclusive Hearing : 25/02/2025

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

ORDER

PER G. D. PADMAHSHALI;

The captioned appeal of the assessee impugns DIN & Order ITBA/NFAC/S/250/2024-25/10703226271(1) dt. 13/11/2024 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. 21/09/2022 passed u/s 144 of the Act by the National Faceless e-Asstt Centre ['Ld. AO' hereinafter] anent to assessment year 2020-21['AY' hereinafter].



2. Succinctly stated facts of the case are; the assessee is an individual who filed his return declaring income ₹1,05,18,370/- on 17/02/2021 was subsequently on 31/03/2021 revised to ₹85,91,300/- The case of the assessee selected for scrutiny by service of notice u/s 143(2) of the Act. In the course of assessment proceedings the assessee failed to respond various notices issued to him and also failed to produce books & documents when summoned. In the absence of evidence and explanation regarding nature & source of outstanding balance of creditors ₹8,18,87,633/-, the Ld. AO treated the same as bogus and consequently brought it to tax u/s 68 of the Act as unexplained cash credit. Further when claim of deduction of ₹35,24,163/- & ₹1,50,000/- made respectively u/s 80G and 80C u/c VI-A of the Act remained unsubstantiated by the assessee, the said claims were also treated as bogus and thus disallowed while framing the assessment to the best of judgement u/s 144 of the Act. The assessee assailed the aforestated addition & disallowances in appeal before the Ld. NFAC, which was dismissed *in-limine* as barred by limitation. Aggrieved assessee came in present appeal challenging the action of Ld. NFAC for violation of principle of natural justice.



3. 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 on 21/09/2022 and appeal there against u/s 246A of the Act was filed on 20/04/2023 with a delay of 210 days. The said appeal was neither accompanied therewith a petition for condonation of delay nor an affidavit stating therein circumstance due to which said delay was occurred. Faced with the situation, the Ld. NFAC rejected to entertain the appeal on a technical ground of assessee's failure to explain the sufficient cause behind such delay.

4. We our view, the appellate remedy or forum is created by the statute is to rest the dispute and not to accelerate for higher forum perfunctorily. Having regard to present facts and circumstances, placing reliance on recent judgement of Hon'ble Supreme Court rendered in '*Raheem Shah & ANR Vs Govind Singh & Ors*' [CIVIL APPEAL NO.4628 OF 2023], 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 wherein the Ld. NFAC came to



dismiss the appeal of the appellant *in limine* on a hyper-technical ground without even according a fair opportunity of hearing. Non-filing of petition for condonation and affidavit explaining sufficient reasons behind delay caused in instituting the appeal in our view although technical but a curable defect. Therefore in all the fairness the appellant was entitled to a fair opportunity to cure the same by filing a petition for condonation & explain the reasons and thus contest his case on merits if allowed. In view of this, without offering any comments on merits of the case, we deem it fit to set-aside the impugned order and remit the file of Ld. NFAC at the stage of its institution with a direction deal therewith *de-novo* in accordance with applicable law and pass a speaking order in terms of section 250(6) of the Act.

5. 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: 03rd 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.