

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

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

**ITA Nos.183 and 184/PUN/2025  
Assessment years : 2017-18 & 2018-19**

R G Developers S.No.112/B, Vishrantwadi, Alandi Road, Vishrantwadi, Pune – 411015	<b>Vs.</b>	ACIT, Circle 7, Pune
<b>PAN: AAHFR0865R</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by : Shri Sharad Shah  
Department by : Shri Arvind Desai, CIT-DR  
Date of hearing : 18-03-2025  
Date of pronouncement : 20-03-2025

**ORDER**

**PER BENCH :**

ITA No.183/PUN/2025 filed by the assessee is directed against the order dated 29.02.2024 of the Ld. Addl./JCIT(A)-1, Ludhiana for assessment year 2017-18 and ITA No.184/PUN/2025 filed by the assessee is directed against the order dated 14.05.2024 of Ld. CIT(A) / NFAC for assessment year 2018-19. For the sake of convenience, both these appeals were heard together and are being disposed of by this common order.

2. There is a delay of 267 days in filing of appeal vide ITA No.183/PUN/2025 and delay of 175 days in filing of appeal vide ITA No.184/PUN/2025 before the Tribunal, for which the assessee has filed a condonation applications along with

affidavits explaining the reasons for such delay. After considering the contents of the condonation applications filed along with the affidavits and after hearing the Ld. DR, the delay in filing of both the appeals is condoned and the appeals are admitted for adjudication.

**ITA No.183/PUN/2025 (A.Y. 2017-18)**

3. Facts of the case, in brief, are that the assessee is a firm engaged in business of construction of commercial and residential buildings. It filed its return of income on 31.10.2017 declaring total income Rs.1,60,62,150/-. The Assessing Officer completed the assessment u/s 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') on 12.12.2019 wherein he made addition of Rs.3,62,202/- on account of disallowance of purchases and Rs.16,76,616/- u/s 40A(3) of the Act and determined the total income at Rs.1,81,00,970/-.

4. Since the assessee did not make any submission before the Ld. CIT(A) despite number of opportunities granted, the Ld. CIT(A) dismissed the appeal for want of prosecution.

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

1. *The Ld. AO erred in making addition (Ld. CIT-A erred in confirming the same) of Rs.3,62,202/-, being 20% of Rs. 18,11,012, on ad hoc basis, merely on the ground that few sundry creditors(parties) ledgers are not provided.*

2. *The Ld. AO erred in (CIT-A erred in confirming) the addition of Rs.6,97,758/- on account of cash payment made in excess of limit prescribed in section 40A(3).*
  3. *The Ld. AO erred in (CIT-A erred in confirming) the addition of Rs.3,42,178/- on ad hoc basis, being 50% of expenses of Rs.6,84,355/- which were incurred towards purchases.*
  4. *The Ld. AO erred in (CIT-A erred in confirming) the addition of Rs.6,36,480/- on ad hoc basis, being 10% of expenses of Rs.63,64,802/- which were incurred towards purchases.*
  5. *The appellant craves for to leave, add, alter, modify, delete above grounds of appeal before or at the time hearing, in the interest of natural justice.*
6. The Ld. Counsel for the assessee at the outset submitted that the earlier Counsel appointed by the assessee neither made any submission before the Ld. CIT(A) nor communicated the notice of hearing to the assessee for which all these unfortunate events happened. He submitted that in the interest of justice the assessee should be given an opportunity to substantiate its case by filing the requisite details before the Ld. Addl./JCIT(A).
7. Ld. DR on the other hand strongly opposed the arguments advanced by the Ld. Counsel for the assessee. Referring to page 2 and 3 of the order of the Ld. Addl./JCIT(A), the Ld. DR submitted that the assessee was given as many as seven opportunities. However, the assessee has never made any submission before the Ld. CIT(A) for which the Ld. CIT(A) sustained the addition made by the Assessing Officer in absence of any material available before him. He accordingly submitted that the order passed by the Ld. Addl./JCIT(A) should be upheld and the grounds raised by the assessee be dismissed.

8. We have heard the rival arguments made by both the sides and perused the orders of the Assessing Officer and Ld. Addl./JCIT(A). It is an admitted fact that despite number of opportunities granted by the Ld. Addl./JCIT(A), the assessee did not make any submission for which the Ld. Addl./JCIT(A) dismissed the appeal for want of prosecution. It is the submission of the Ld. Counsel for the assessee that in the interest of justice, the assessee should be given an opportunity to substantiate its case by filing the requisite details before the Ld. Addl./JCIT(A). Considering the totality of the facts of the case and in the interest of justice, we deem it proper to restore the issue to the file of the Ld. Addl./JCIT(A) with a direction to grant one final opportunity to the assessee to substantiate its case by filing requisite details and decide the issue as per fact and law after giving due opportunity of being heard to the assessee. The assessee is also hereby directed to make its submissions, if any, before the Ld. Addl./JCIT(A) on the appointed date without seeking any adjournment under any pretext, failing which the Ld. Addl./JCIT(A) 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.

**ITA No.184/PUN/2025 (A.Y. 2018-19)**

9. Facts of the case, in brief, are that the Assessing Officer in the instant case completed the assessment u/s 143(3) of the Act on 31.03.2021 determining the total income of the assessee at Rs.1,54,08,120/- as against the returned income of

Rs.1,13,14,520/- by making the addition of Rs.40,93,600/- under the head 'Income from house property'.

10. Since the assessee did not make any submission before the Ld. CIT(A) / NFAC despite two opportunities granted, the Ld. CIT(A) / NFAC in the *ex-parte* order passed by him dismissed the appeal for want of prosecution.

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

1. *The Ld. AO erred in (CIT-A erred in confirming) the addition of Rs.40,93,600/-on account of deemed rent (notional income) for the remaining 43 flats which are held in stock in trade by applying the provision of section 23(5).*
2. *The Ld. AO and CIT-A erred in making addition of Rs. 40,93,600/- ignoring theory of Real Income.*
3. *On without prejudice basis, the Ld. AO and CIT-A erred in making addition of Deemed Rent in the AY 2018-19, whereas the amended provision of section 23(5) talks about taxability of Notional Rent Income after expiry of period of 2 years from the date of completion of building.*
4. *The appellant craves for to leave, add, alter, modify, delete above grounds of appeal before or at the time hearing, in the interest of natural justice.*

12. After hearing both sides, we find the grounds raised in ITA No.184/PUN/2025 are identical to the grounds raised in ITA No.183/PUN/2025. Since we have already restored the issue back to the file of the Ld. Addl./JCIT(A) for deciding the same after giving due opportunity of being heard to the assessee, therefore, we restore the issue in ITA No.184/PUN/2025 to the file of the Ld. CIT(A) for deciding the same after giving due opportunity of being heard to the

assessee. The grounds raised by the assessee are accordingly allowed for statistical purposes.

13. In the result, both the appeals filed by the assessee are allowed for statistical purposes.

Order pronounced in the open Court on 20<sup>th</sup> March, 2025.

**Sd/-**

(ASTHA CHANDRA)  
JUDICIAL MEMBER

पुणे Pune; दिनांक Dated : 20<sup>th</sup> March, 2025

GCVSR

**Sd/-**

(R. K. PANDA)  
VICE PRESIDENT

**आदेश की प्रतिलिपि अग्रेषित/Copy of 2 the Order is forwarded to:**

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

**आदेशानुसार/ BY ORDER,**

**// True Copy //**

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

S.No.	Details	Date	Initials	Designation
1	Draft dictated on	18.03.2025		Sr. PS/PS
2	Draft placed before author	20.03.2025		Sr. PS/PS
3	Draft proposed & placed before the Second Member			JM/AM
4	Draft discussed/approved by Second Member			AM/AM
5	Approved Draft comes to the Sr. PS/PS			Sr. PS/PS
6	Kept for pronouncement on			Sr. PS/PS
7	Date of uploading of Order			Sr. PS/PS
8	File sent to Bench Clerk			Sr. PS/PS
9	Date on which the file goes to the Head Clerk			
10	Date on which file goes to the A.R.			
11	Date of Dispatch of order			