

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH, NAGPUR

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER

SMC MATTER

ITA no.265/Nag./2024
(Assessment Year : 2017-18)

Mohammad Rafique Mohammad Jalil
Quality Tyre Services, Manawta Mandir
Arni, District Yavatmal 445 103
PAN – AQJPJ4966H

..... Appellant

v/s

Income Tax Officer
Ward-II, Yavatmal

..... Respondent

Assessee by : Shri P.M. Gandhi
Revenue by : Shri Abhay Y. Marathe

Date of Hearing – 06/02/2025

Date of Order – 21/03/2025

ORDER

The present appeal has been filed by the assessee challenging the impugned order dated 31/01/2023, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [“learned CIT(A)”], for the assessment year 2017-18.

2. While going through the material available on record, we find that the assessee did not appear before the learned CIT(A) which resulted in passing ex-parte order by dismissing the appeal of the assessee. The decision of the learned CIT(A) is as under:–

"5.3 During the course of appellate proceedings, sufficient opportunities were given to the appellant; however, no submissions/evidences/documents have been filed by the appellant to substantiate the grounds of appeal. The appellant was given specific opportunity to file any details filed by him before any authority physically/online earlier as no replies of the appellant are found existing in the online system. Thus, in the absence of any submission/documents, I have no material to interfere with observations and addition made by the AO. In view of the above, I upheld the decision of the AO and confirm the additions as discussed in para 5.3 above. Accordingly, all grounds of appeal are hereby dismissed.

3. Before me, during the course of hearing, learned Authorised Representative, Shri Gandhi, appearing for the assessee, admitting the lapse on the part of the assessee for not responding to the explanation sought by the learned CIT(A). However, he pleaded that if this Bench grants the assessee one opportunity by restoring this appeal to the file of the Assessing Officer, so that the assessee is able to substantiate its case before the Assessing Officer. Therefore, he prayed that the appeal be restored to the file of the learned CIT(A).

4. On the other hand, the learned D.R., Shri Abhay Y. Marathe, for the Revenue submitted that despite the learned CIT(A) provided sufficient opportunities to the assessee, however, the assessee did not appear before the learned CIT(A) and not furnished relevant details. He strongly supported the orders passed by the learned CIT(A).

5. I have heard both the learned Counsel appearing for the parties, perused the materials available on record and gone through orders of the authorities below. I find that though the authorities below have granted several opportunities to the assessee to substantiate its case, ultimately, the orders passed by both the authorities below were ex-parte orders. Therefore,

I am of the opinion that by following the principles of natural justice, one opportunity should be given to the assessee to substantiate the case before the Assessing Officer. In view of the above, the impugned order passed by the learned CIT(A) is set aside and remit the back matter to the file of the learned CIT(A) and direct him to adjudicate the matter afresh on merit and in accordance with law after providing reasonable opportunity of being heard to the assessee. It is also directed that the assessee should not seek adjournment without there being a justified reason and adhere to the directions of the learned CIT(A) promptly. Accordingly, the appeal is hereby restored to the file of the Assessing Officer for statistical purposes.

6. In the result, assessee's appeal stands allowed for statistical purposes.

Order pronounced in the open Court on 21/03/2025

NAGPUR, DATED: 21/03/2025

**Sd/-
V. DURGA RAO
JUDICIAL MEMBER**

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Nagpur; and
- (5) Guard file.

*Pradeep J. Chowdhury
Sr. Private Secretary*

True Copy
By Order

Sr. Private Secretary
ITAT, Nagpur