

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "A", PUNE

BEFORE SHRI R. K. PANDA, VICE PRESIDENT
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.1362/PUN/2024
निर्धारण वर्ष / Assessment Year : 2018-19

Indumati HP Gas Gramin Vitrak, A/p Kasaba Beed, Tal. Karveer, Dist. Kolhapur- 416011. PAN : AAFFI4054H	Vs.	ITO, Kolhapur. Ward-1(1),
Appellant		Respondent

Assessee by : Shri Nikhil S. Pathak &
Shri Mayuresh Doshi
Revenue by : Shri Ramnath P. Murkunde
Date of hearing : 23.12.2024
Date of pronouncement : 11.03.2025

आदेश / ORDER

PER VINAY BHAMORE, JM:

This appeal filed by the assessee is directed against the order dated 24.04.2024 passed by Ld. CIT(A)/NFAC for the assessment year 2018-19.

2. The appellant has raised the following grounds of appeal :-

- "1. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) is not justified in confirming the addition of Rs. 3,02,29,400/- u/s 69A of the Act when the assessee has explained the sources of the amount deposited.*
- 2. On the facts and in the circumstances of the case and in law, the Ld. CIT (A) is not justified in confirming the addition of Rs. 3,02,29,400/- as entire amount deposited in bank without considering the withdrawals from the bank account.*

3. *The appellant craves, to consider each of the above grounds of appeal without prejudice to each other and craves leave to add, alter, delete or modify all or any of the above grounds of appeal.”*

3. Facts of the case, in brief, are that the assessee is a partnership firm and has not furnished its return of income. On the basis of information that the assessee firm has made cash deposit of Rs.3,03,29,400/- during the period under consideration but the assessee firm has not filed its return of income. Therefore, proceedings u/s 147 of the IT Act was initiated and notice u/s 148 and 142(1) were issued to the assessee. Since the assessee firm did not respond to the statutory notices, the Assessing Officer proceeded to complete the assessment proceedings *ex-parte* u/s 147 r.w.s. 144 r.w.s. 144B of the IT Act on a total income of Rs.3,03,29,400/-. The above assessed income includes undisclosed income of Rs.3,03,29,400/- liable to be taxed as per section 115BBE of the IT Act.

4. After considering the reply of the assessee, Ld. CIT(A)/NFAC dismissed the appeal filed by the assessee by observing as under :-

“In light of the above discussed facts and discussions at point no.(i) to (ix), it is very much clear that the appellant assessee is not providing relevant documents/evidences to this Appellate authority and even written submissions have not been filed by the appellant assessee. During the course of assessment proceedings also the appellant assessee has not filed any relevant documents/evidences and remained un-compliant. Thus, this Appellate authority is in the view that, the

addition made by the Assessing officer amounting to Rs 3,03,29,400/- on account of undisclosed income u/s 69A of the Income-tax Act, 1961 is correct and thus UPHELD.”

5. It is this order against which the assessee is in appeal before this Tribunal.

6. Ld. AR appearing from the side of the assessee submitted before us that the order passed by Ld. CIT(A)/NFAC is unjustified. Ld. AR produced paper book consisting of 46 pages wherein certain additional evidences were filed before us. The additional evidence consists of return of income filed by Shri Prakash Suryawanshi, the proprietor of Indumati HP Gas Gramin Vitrak, audit report u/s 44AB of the IT Act of Indumati HP Gas Gramin Vitrak, GST returns of Indumati HP Gas Gramin Vitrak which is proprietorship concern of Shri Prakash Suryawanshi and copy of bank statement of Indumati HP Gas Gramin Vitrak, proprietor Shri Prakash Suryawanshi. Ld. AR further submitted before us that earlier the assessee was doing business in the status of partnership firm under the same name and style of M/s Indumati HP Gas Gramin Vitrak. However, from assessment year 2018-19 the business was taken over by Shri Prakash Suryawanshi and was run by him as a proprietorship concern under the same name and style of M/s Indumati HP Gas Gramin Vitrak. It was further submitted by Ld. AR that in the bank accounts the name of erstwhile partner

Shri Prakash Suryawanshi was entered as proprietor but the AIR information was forwarded in the name of partnership firm, which resulted in addition in the *ex-parte* assessment in the name of partnership firm whereas in-fact the business was carried on in the proprietorship of erstwhile partner Shri Prakash Suryawanshi under the same name and style of M/s Indumati HP Gas Gramin Vitrak. It was further submitted that erstwhile partner Shri Prakash Suryawanshi has obtained GST Number on his individual PAN and the same business was started under the same name and style but as a proprietorship concern. Ld. AR prayed before the Bench that whole controversy arises due to the reason that the *ex-parte* assessment order was passed in the status of partnership firm whereas the business was not carried on by partnership firm but was being carried on by the erstwhile partner Shri Prakash Suryawanshi under his proprietorship and, therefore, in the light of additional evidences furnished before the Bench the matter may kindly be set-aside to the file of the Assessing Officer to verify this fact and pass the assessment order in the name of correct person.

7. Ld. DR appearing from the side of the Revenue relied on the orders passed by the subordinate authorities and requested to confirm the same.

8. We have heard Ld. Counsels from both the sides and perused the material available on record including the additional evidences submitted by the assessee in the shape of paper book. We find that the *ex-parte* assessment order was framed on the partnership firm due to non-compliance. It is the submission of Ld. AR that the business was not done by the partnership firm but was carried on by the erstwhile partner Shri Prakash Suryawanshi. We find from the additional evidences that the turnover of Indumati HP Gas Gramin Vitrak was duly incorporated in the audited books of accounts of Shri Prakash Suryawanshi. We also find that Shri Prakash Suryawanshi has obtained GST Number on his individual PAN wherein the turnover of Indumati HP Gas Gramin Vitrak was disclosed by him. It is the contention of Ld. AR that all the above documents could not be produced before Ld. CIT(A)/NFAC and therefore prayer was made to admit these additional evidences for adjudication. Considering the totality of the fact of the case and in the interest of justice, we are of the considered opinion that since the additional evidences go to the root of the matter and need to be examined by the Assessing Officer, therefore, we deem it appropriate to set-aside the order passed by the Ld. CIT(A)/NFAC and restore the matter back to the file of the Assessing Officer with a direction to pass assessment order afresh after considering the

additional evidences filed before us & after providing reasonable opportunity of hearing to the assessee. The assessee is also hereby directed to respond to the notices issued by the Assessing Officer in this regard and produce requisite & necessary evidences, explanations & documents before the Assessing Officer without taking any adjournment under any pretext, otherwise Ld. Assessing Officer shall be at liberty to pass appropriate order as per law. Thus, the grounds of appeal filed by the assessee are allowed for statistical purposes.

9. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on this 11th day of March, 2025.

Sd/-
(R. K. PANDA)
VICE PRESIDENT

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 11th March, 2025.

Sujeet

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "A" बेंच, पुणे / DR, ITAT, "A" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

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