

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

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

**ITA No.2203/PUN/2024
Assessment year : 2016-17**

Jaswinder Singh Hari Gowara, Malerkotla, Sangrur, Punjab – 148023	Vs.	ITO, Ward 11(4), Pune
PAN: ABKPH5669P		
(Appellant)		(Respondent)

Assessee by : Shri Parikshit Aggarwal (virtual)
Department by : Shri Ramnath P Murkude
Date of hearing : 07-05-2025
Date of pronouncement : 13-05-2025

ORDER

PER R.K. PANDA:

This appeal filed by the assessee is directed against the order dated 30.08.2024 of the Ld. CIT(A) / NFAC, relating to assessment year 2016-17.

2. Although a number of grounds have been raised by the assessee, however, these all relate to the *ex-parte* order of the Ld. CIT(A) / NFAC in confirming the addition of Rs.90 lakhs made by the Assessing Officer.

3. Facts of the case, in brief, are that the assessee is an individual and has not filed his return of income for the impugned assessment year. Information was available on record that the assessee had purchased immovable property of Rs.90,00,000/- in assessment year 2016-17. Accordingly, an order u/s 148A(d) of

the Income Tax Act, 1961 (hereinafter referred to as 'the Act') was passed on 24.02.2023 after giving proper opportunity to the assessee. In the said order it was concluded that the amount of Rs.90 lakhs chargeable to tax has escaped assessment within the meaning of section 147 of the Act. Subsequently, notice u/s 148 of the Act was issued on 24.02.2023. The assessee, in response to the same, filed his return of income declaring total income of Rs.18,12,010/- for the year under consideration. A notice u/s 143(2) of the Act was subsequently issued and served on the assessee. However, there was no proper compliance from the side of the assessee. The Assessing Officer, therefore, in absence of any submission before him to explain the source of purchase of immovable property, made addition of Rs.90 lakhs u/s 69 r.w.s. 115BBE of the Act.

4. 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.

5. The Ld. Counsel for the assessee at the outset submitted that since the notice issued by the Ld. CIT(A) / NFAC went to the spam folder of the e-mail, the then Counsel of the assessee could not make any submission before the Ld. CIT(A) / NFAC. Further, the Ld. CIT(A) / NFAC has not followed the provisions of section 250(6) of the Act. He accordingly submitted that in the interest of justice, the

assessee should be given an opportunity to substantiate his case before the Ld. CIT(A) / NFAC.

6. The Ld. DR on the other hand strongly challenged the arguments of the Ld. Counsel for the assessee. He submitted that the assessee has not taken any steps against the Counsel who did not respond to the notices issued by the Ld. CIT(A) / NFAC. He submitted that even before the Assessing Officer the assessee did not make any submission for which the Assessing Officer made the addition. He accordingly submitted that the order passed by the Assessing Officer and upheld by the Ld. CIT(A) / NFAC should be upheld and the grounds raised by the assessee be dismissed.

7. We have heard the rival arguments made by both the sides, perused the orders of the Assessing Officer and Ld. CIT(A) / NFAC and the paper book filed on behalf of the assessee. It is an admitted fact that during the course of assessment proceedings the assessee did not explain the source of investment towards purchase of immovable property for which the Assessing Officer, in the order passed u/s 147 r.w.s. 144B of the Act made addition of Rs.90 lakhs to the total income of the assessee u/s 69 r.w.s. 115BBE of the Act. We find due to non submission of any details before the Ld. CIT(A) / NFAC despite two opportunities granted, he sustained the addition made by the Assessing Officer. It is the submission of the Ld. Counsel for the assessee that the notices issued by the Ld.

CIT(A) / NFAC went to the spam folder of e-mail for which the assessee could not make any submission before him. It is also his submission that the Ld. CIT(A) / NFAC has not followed the provisions of section 250(6) of the Act while deciding the appeal and has simply dismissed the appeal for want of prosecution. It is also his submission that given an opportunity, the assessee is in a position to substantiate his case by filing the requisite details before the Ld. CIT(A) / NFAC.

8. We find the provisions of section 250(6) of the Act which reads as under:

“250(1).

...

(6) The order of the [Joint Commissioner (Appeals) or the] Commissioner (Appeals) disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reason for the decision.”

9. However, a perusal of the order of the Ld. CIT(A) / NFAC shows that he has dismissed the appeal for want of prosecution but has not decided the appeal as per the provisions of section 250(6) of the Act. 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. CIT(A) / NFAC with a direction to grant an opportunity to the assessee to substantiate his case and decide the appeal on merit by passing a speaking order. The assessee is also hereby directed to appear before the Ld. CIT(A) / NFAC on the appointed date and make his submissions, if any, without seeking any adjournment under any pretext failing which the Ld. CIT(A) shall be 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.

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

Order pronounced in the open Court on 13th May, 2025.

Sd/-
(ASTHA CHANDRA)
JUDICIAL MEMBER

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

पुणे Pune; दिनांक Dated : 13th May, 2025

GCVSR

आदेश की प्रतिलिपि □ ग्रेषित/Copy of the Order is forwarded to:

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent
3. The concerned Pr.CIT, Pune
4. DR, ITAT, 'A' 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	07.05.2025		Sr. PS/PS
2	Draft placed before author	08.05.2025		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			