



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. 053/PAN/2025

Assessment Year : 2020-21

Priya Prasad Shirodkar

H.No. 4/96, Prabhuwaddo,

Calangute, Goa

PAN : AKIPG9924D

..... *Appellant*

V/s

Income Tax Officer,

Ward-2, Panaji, Goa.

..... *Respondent*

Appearances

Assessee by : None for the Assessee

Revenue by : Mr Narendra Reddy ['Ld. DR']

सुनवाई की तारीख / Date of conclusive Hearing : 07/04/2025

घोषणा की तारीख / Date of Pronouncement : 08/04/2025

ORDER

PER G. D. PADMAHSHALI;

The captioned appeal of the assessee impugns DIN & Order 1065516948(1) dt. 10/06/2024 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. 26/09/2022 passed u/s 143(3) of the Act by the National Faceless e-Asstt. Centre, Delhi ['Ld. NFeAC' hereinafter] anent to assessment year 2020-21 ['AY' hereinafter].

2. The appeal is time barred by 207 days. From the reasons stated in the affidavit we are of the considered view that, the assessee for a



sufficient reasons was prevented from filing the present appeal within the prescribed limit terms of section 253(3) of the Act. Consequently, applying the test laid in ‘CIT Vs KSP Shanmugavel Nadai Ors’ [1985, 153 ITR 596 (Mad)] we condone the aforesaid delay and admit the same for adjudication on merit

3. Tersely stated facts of the case are that; the assessee is an individual who filed her return of income on 13/03/2021 declaring therein total income of ₹16,06,900/-. The said return of income without variation in first placed processed summarily u/s 143(1) of the Act. Subsequently the case of the assessee selected for scrutiny and consequential assessment was completed u/s 143(3) of the Act wherein owing to assessee’s failure to respond to the notices & substantiate true nature & source various additions were made and total income vide an order dt. 26/09/2022 framed u/s 143(3) r.w.s. 144B was assessed to tax at ₹71,79,030/- as against the returned income of ₹16,06,900/-.

4. Aggrieved assessee attempted to resolve the dispute in first appeal before the Ld. NFAC, who in the event of non-prosecution by the assessee dismissed the ex-parte *in limine*. Thus aggrieved by impugned order, the assessee came in present appeals on as many as nine grounds



which are inconsonance with rule 8 of ITAT-Rules, hence reproduction thereof is dispensed with.

5. Without touching grounds and merits of the case; we heard the respondent on limited issue and subject to rule 18 of ITAT-Rules 1963 perused material placed on record and we note that, in the event of non-prosecution, the Ld. NFAC came to dismiss the appeal *ex-parte in limine* without adjudicating the issues/ground raised in Form No. 35. While doing so, the Ld. NFAC placed its reliance on '*CIT Vs B N Bhattacharya*' [1977, 118 ITR 461 (SC)], '*Estate of Late Tukoji Rao Holkar Vs CWT*' [1997, 223 ITR 480 (MP)] and '*CIT Vs Multiplan India Pvt. Ltd.*' [1991, 38 ITD 320 (Del)]. We note that, while dealing with the appeal for passing an order u/s 250(6) of the Act, the Ld. NFAC in view of prescription of Section 251(1)(a) and (b) and Explanation to Section 251(2) of the Act was required to apply his mind to all the issues which arise from the impugned order before him whether or not the same has been raised in form no 35. Thus, the law does not empower the Ld. NFAC to dismiss the appeal for non-prosecution *in limine*.

6. We note that, the issue of *ex-parte* dismissal of appeal by the first appellate authority came for consideration before the Hon'ble



Jurisdictional Bombay High Court in the case of '*CIT Vs Premkumar Arjundas Luthra HUF*' [2016, 240 Taxman 133 (Bom)] wherein their Hon'ble lordship vide para 8 have categorically held that, the first appellate authority [CIT(A)] does not have the power to dismiss an appeal for non-prosecution and even in the case of *ex-parte* adjudication the CIT(A) must decide with the appeal on merits, considering all the relevant facts and evidence.

7. Respectfully following the former judicial precedent (*supra*), we set-aside the impugned *ex-parte* order passed by the Ld. NFAC without dealing with the issues/merits of the case as assailed and remit & restore the appeal to the file of Ld. NFAC at the stage of its institution with a direction to deal therewith *de-novo* on merits and pass a speaking order in terms of section 250(6) of the Act. Order Accordingly.

8. 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: 08th April, 2025.

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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.