



सत्यमेव जयते



IN THE INCOME TAX APPELLATE TRIBUNAL, PANAJI BENCH, GOA
BEFORE HON'BLE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER
AND
SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER



Sr	ITA No	Assessment Year	Appellant	Respondent	PAN
1	042/PAN/2024	2013-14	Basavaraj Sivappa Bhate	Dy. Commissioner of Income Tax, Central Circle, Belagavi.	AFNPB9916J
2	043/PAN/2024	2014-15			
3	044/PAN/2024	2015-16			
4	045/PAN/2024	2016-17			
5	046/PAN/2024	2017-18			
6	047/PAN/2024	2018-19			
7	062/PAN/2023	2013-14	Akash Peg Bar	Dy. Commissioner of Income Tax, Central Circle, Belagavi.	AAHFA2805N
8	063/PAN/2023	2014-15			
9	064/PAN/2023	2015-16			
10	065/PAN/2023	2016-17			
11	066/PAN/2023	2017-18			
12	067/PAN/2023	2018-19			
13	118/PAN/2022	2013-14	Nidhi Bar & Restaurant	Dy. Commissioner of Income Tax, Central Circle, Belagavi.	AAFFN5503Q
14	119/PAN/2022	2014-15			
15	120/PAN/2022	2015-16			
16	121/PAN/2022	2016-17			
17	122/PAN/2022	2018-19			
18	124/PAN/2023	2013-14	Siddheshwar Wines	Dy. Commissioner of Income Tax, Central Circle, Belagavi.	AAPFS7875J
19	125/PAN/2023	2014-15			
20	126/PAN/2023	2015-16			
21	127/PAN/2023	2016-17			
22	128/PAN/2023	2017-18			
23	129/PAN/2023	2018-19			



Appearances

Assessee by : Mr BS Balachandran ['Ld. AR']

Revenue by : Mr Satish M ['Ld. DR']

सुनवाई की तारीख / Date of conclusive Hearing : 16/06/2025

घोषणा की तारीख / Date of Pronouncement : 18/06/2025

ORDER

PER G. D. PADMAHSHALI;

The captioned bunch of appeals of different assessee's filed u/s 253(1) of the Act of the Income-tax Act, 1961 ['the Act'] challenges respective separate orders passed by the Ld. Commission of Income Tax Appeals-2, Panaji Goa ['Ld. CIT(A)'] u/s 250 of the Act involving six assessment years 2013-14 to 2018-19['AY'] which emanated respectively from separate orders passed by the Dy. Commissioner of Income Tax, Central Circle, Panaji Goa ['Ld. AO'] u/s 153A/153C of the Act.

2. The primary grievance in the present appeals twirls around denial of personal hearing in-spite assessee's written request made in reply to notices issued in appellate proceedings.



3. Since facts involved in this bunch of appeals and issue dealt therein are common & identical and since arising out of a common search, on rival party's request these appeals for the sake of brevity & convenience are heard together for being disposed-off by this common & consolidated order.

4. In adjudicating these matters together, the first appeal listed at Sr No 1 viz; ITA No. 042/PAN/2024 is taken as lead case, resultantly our adjudication laid in succeeding paragraphs shall *mutatis-mutandis* apply to remaining appeals listed at Sr. No 2 to 23.

5. Against respective impugned orders, the appeals listed at Sr. No 1 to 6 and Sr. No 13 to 17 were filed with a delay of 241 days & 49 days respectively. The reasons behind such delay in instituting respective appeals have been explained by the Ld. AR with the support of affidavits placed on records.



6. After vouching facts & circumstances concerning delay, affidavits placed on records, reasons explained therein & reiterated by the Ld. AR in the course of hearing and sufficiency thereof etc., we are satisfied that said delay in filing former appeals was accidental & undeliberate. We therefore of the view that for sufficient cause appellants were prevented from filing former appeals within the statutory time limit. As these cases falls within the parameter set by Hon'ble Courts in '*Vijay Vishin Meghani Vs. DCIT & Anr*' [2017, 398 ITR 250 (Bom)] and '*Collector, Land Acquisition, Anantnag and Anr. Vs Ms Katiji and Others*' [1987, 167 ITR 5 (SC)], we therefore after placing reliance on former judicial precedents, in the larger interest of justice have condoned the said delay and advanced to adjudicate limited issue of violation of principle of natural justice.



7. Without touching merits of additions, we have heard rival party's common submissions on the ground concerning denial of personal hearing by the Ld. CIT(A) and subject to rule 18 of ITAT-Rules 1963 perused material placed on record and considered facts in the light of settled position of law, which are forewarned to the parties for their rebuttal.

ITA No. 042/PAN/2024

8. As we note that, as against the order of assessment dt. 12/04/2021 passed u/s 153C r.w.s. 143(3) of the Act the appellant assessee filed an appeal before Ld. CIT(A) on 06/05/2021. In response to notices issued in the course of first appellate proceedings the appellant assessee through its representative Adv. Pramod Vaidya made written submissions vide online mode. In the course of such online proceedings, vide latest notice dt. 17/04/2023 the appellant was asked to clarify the issues under



adjudication, which was duly replied online by filing written submission on the same day accompanying therewith a specific request for grant of **personal hearing**. [Pg 52-62 of paper book dt. 13/05/2025 submitted by the appellant]. By the impugned order dt. 28/04/2023 passed order u/s 250 of the Act the Ld. CIT(A) culminated the appellate proceedings after taking into account former written submission. The request for personal hearing however was neither granted nor dealt with in the impugned order. The inaction on the part of Ld. CIT(A) to deal with the written request for personal/physical hearing thus tantamounted violation of principle of natural justice and for the solitary reason the appellant seeks to set-aside the impugned order and request for remand for *de-novo* adjudication in the light of material already placed on record after according personal/physical hearing to reverse negative inference drawn.



9. The 'strict rule of evidence' does not apply to tax proceedings; hence assessee tries & makes every possible attempt to place such evidences which could inspire tax authorities. While taking cognizance of assessee's such evidences, adjudicating authorities are duty bound to convey negative inference if any drawn before passing adverse order thereon. In the hindsight if assessee pre-emptively requests for personal hearing to negate any adverse inference been possibly drawn from such evidences, then also authorities are duty bound to deal therewith either deciding it conclusively [by granting or rejecting it] or spelling out clearly as to why such personal hearing considered not necessary. Both inactions viz; (i) in according personal hearing while inferring negatively for varying returned income or (ii) in dealing with specific request for personal hearing, shall in our view lead to violation of principle of natural justice.

10. In case of '*Pico Capital Pvt Ltd. Vs DCIT*' [2024, 460 ITR 508 (Bom)] where a request for personal hearing was denied and assessment was framed, the Hon'ble Jurisdictional High Court while quashing & setting-aside assessment held that, personal hearing is critical aspect of natural justice, especially when explicitly provided for by law. The denial of personal hearings undermines taxpayer's ability to present & argue case effectively. While coming to aforesaid conclusion their Hon'ble Lordships have placed reliance on golden old case law '*John Vs Rees*' [1970, 1-Ch-D-345] highlighting that, *even seemingly straightforward cases require adherence to natural justice principles to prevent arbitrary decisions.*

11. In a case where the Revenue rejected assessee's reply & confirmed demand as per show-cause notice. On a tax Writ, the Hon'ble Allahabad High Court in '*K.*



J. Enterprises v. State of UP [Writ Tax No. 1544/ 2022, dt. 01/02/2024], observed that order confirming demand was passed without granting an opportunity to refute negative inference drawn from taxpayers reply. The failure to accord an opportunity of personal hearing to the taxpayer was a gross violation of principles of natural justice. Consequently it was held that, an adverse order cannot be passed without granting an opportunity of personal hearing to the taxpayer. A similar ratio also reiterated by the Hon'ble Jurisdictional Bombay High Court in '*Nikhil Chandrakant Dharia Vs ITO*' [2024, 469 ITR 262].

12. Further in a case where a show cause notice-cum-draft assessment order was replied by written submission accompanying therewith a request for personal hearing before passing final assessment order. The order of assessment however was passed



without according a personal hearing. The denial of personal hearing was agitated in Writ before the Hon'ble Delhi High Court, in '*Balraj Hire Purchase (P.) Ltd. Vs NFAC*' [2021, 128 taxmann.com 190 (Del)] wherein Revenue contended that assessee's reply to show cause notice-cum-draft assessment order was considered, hence the outcome would have been same even if AO had granted a personal hearing. The Hon'ble Court rejected the Revenue's contention and held that, where income to be varied on the basis of evidences submitted by assessee, then grant of personal hearing to such assessee is must. In the event of failure to accord personal hearing when specifically requested for, is breach of principles of natural justice. A similar ratio of the Hon'ble Delhi High Court can be found in '*Sanjay Aggarwal Vs NFAC*' [2021, 127 taxmann.com 637 (Del)].



13. In the present case of appellant assessee, there was a search pursuant to which assessments for six years i.e. for assessment years 2013-14 to 2018-19 were framed during outbreak of COVID-19 pandemic. Separate appeals thereagainst were filed and appellate proceeding also commenced during COVID-19 pandemic. By latest notice dt. 25/05/2023 (the only notice on record) the appellant was called upon to prove claims made against assessment which appellant replied by written submission with a request for personal hearing to clarify & explain. The Ld. CIT(A) considered the written submission while arriving the decision on appeals, however turned blind eye to appellant's request for personal hearing. The inaction of Ld. CIT(A) to deal with appellant's specific request for personal hearing, since violative of principle of natural justice, therefore impugned order deserves to be set-aside on that score.



14. In view of former discussion and judicial precedents, we hold the impugned order passed without dealing with appellant's written request for personal hearing as violative of principle of natural justice, hence cannot be sustained in law, thus set-aside for its remand to the file of Ld. CIT(A) with a direction to accord **'effective personal hearing through virtual mode'** and deal therewith *de-novo* on the basis of material and evidences already brought on records. Thus the first ground and the appeal *per-se* stands partly allowed for statistical purpose in forestated terms.

15. These appeals in result partly allowed for statistical purpose in aforestated terms.

In terms of rule 34 of ITAT Rules, 1963 the order pronounced in the open court on date mentioned hereinbefore.

**-S/d-
PAVAN KUMAR GADALE
JUDICIAL MEMBER**

**-S/d-
G. D. PADMAHSHALI
ACCOUNTANT MEMBER**

Panaji/Dt: 18th June 2025.

Copy of the Order forwarded to :

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|-------------------|--------------------------------|------------------------------|
| 1. The Appellant. | 2. The Respondent. | 3. The CIT(A)/NFAC Concerned |
| 4. PCIT Concerned | 5. DR, ITAT, Panaji Bench, Goa | 6. Guard File |

By Order,
Sr. Private Secretary / AR ITAT, Panaji.