

आयकर अपीलीय अधिकरण न्यायपीठ रायपुर में।
IN THE INCOME TAX APPELLATE TRIBUNAL,
RAIPUR BENCH, RAIPUR

BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER
AND
SHRI ARUN KHODPIA, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA Nos.422 & 423/RPR/2025
निर्धारण वर्ष / Assessment Years : 2017-18 & 2015-16

Ravi Raika
22/4, Nehru Nagar West,
Bhilai (C.G.)-490 020
PAN: ACJPA2125R

.....अपीलार्थी / Appellant

बनाम / V/s.

The Assistant Commissioner of Income Tax-1(1),
Bhilai (C.G.)

.....प्रत्यर्थी / Respondent

Assessee by : Shri Moolchand Jain, Advocate
Revenue by : Dr. Priyanka Patel, Sr. DR

सुनवाई की तारीख / Date of Hearing : 30.07.2025
घोषणा की तारीख / Date of Pronouncement : 31.07.2025

आदेश / ORDER**PER PARTHA SARATHI CHAUDHURY, JM:**

The captioned appeals preferred by the assessee emanates from the respective orders of the Ld.CIT(Appeals)/NFAC, Delhi dated 23.05.2025 for the assessment year 2017-18 and 2015-16 as per the grounds of appeal on record.

2. Though the assessee has assailed several grounds, however, at the time of hearing, the Ld. Counsel for the assessee contended that the very basis of the judicial process while dispensing justice i.e. principles of natural justice has not been complied with in the case of the assessee since the Ld. CIT(Appeals)/NFAC while enhancing the quantum in the appellate proceedings had not provided any opportunity of hearing to the assessee. The said fact is evident from the order of the Ld. CIT(Appeals)/NFAC itself through own admission.

3. Per contra, the Ld. Sr. DR on principle conceded to the facts brought on record by the Ld. Counsel regarding no opportunity provided to the assessee. However, she relied on the orders of the sub-ordinate authorities.

4. That on careful consideration regarding the non-compliance of the principles of natural justice by the Ld. CIT(Appeals)/NFAC, we refer to Para

6.1.1 of the Ld. CIT(Appeals)/NFAC order in ITA No.422/RPR/2025 for A.Y.2017-18 and the same is extracted as follows:

“6.1.1. Now before me in the appellate proceedings, the appellant has filed written submission. The appellant has stated that the genuine transaction has taken place. It has been further mentioned that the transactions are not bogus. appellant submitted the bank statement and the ledger of both the parties. The appellant has hence pleaded that the transactions are genuine. The contention of the appellant cannot be accepted as this is a clear cut case of accommodation entries as per the statements of the persons concerned. Recently Hon. Bombay High Court in the decision of PCIT vs. M/s. Kanak Impex dated 03.03.2025, analysed various decisions of various Courts including decision of Hon. Gujrat High Court in the case of M/s. N. K. Industries vs. CIT and held that estimating a certain percentage on bogus claim is against the principles of Section 68 and 69C of the Income Tax Act, 1961. Reliance was also made on the decision of PCIT vs. Premlata Tekriwal of Calcutta High Court on this issue. Hon. Bombay High Court also relied upon the decision of Hon. Allahabad High Court in the case of ACIT vs. Shanti Join. Hon. Bombay High Court in the above mentioned decision held that entire bogus entry has to be disallowed and Hon. Court went against percentage addition. Hence, the addition of the AO is enhanced to Rs.4525884/- in place of Rs.226294/- on basis of above mentioned decisions. **Notice of enhancement to the appellant has not been given as the enhancement is made as per the decisions of Hon. Bombay High Court, Hon Gujarat High Court and Hon. Calcutta High Court.**”

Similarly, in ITA No.423/RPR/2025 for A.Y.2015-16, vide Para 6.1.1 of the Ld. CIT(Appeals)/NFAC wherein the said issue of grievance is emanating, the same is only referred to and is not extracted for the sake of brevity.

5. That on perusal of the aforesaid paras in both the matters, the Ld. CIT(Appeals)/NFAC writes that “Notice of enhancement to the appellant has not been given as the enhancement is made as per the decisions of

Hon. Bombay High Court, Hon Gujarat High Court and Hon. Calcutta High Court.”

6. The Hon’ble Supreme Court has consistently emphasized the importance of adequate natural justice in the judicial and quasi-judicial proceedings. This principle ensures fairness, reasonableness and due process preventing arbitrary action and upholding fundamentality of the legal process. In the case of **Maneka Gandhi Vs. Union of India (UOI) and Ors. AIR 1978 SC 597**, the Hon’ble Apex Court expanded the scope of natural justice holding that any action violating fairness, reasonableness and due process is arbitrary and unconstitutional. In the case of **State of Orissa Vs. Dr. (Miss) Binapani Dei, 1967 AIR 1269**, the Hon’ble Apex Court has established that even administrative orders affecting a person’s rights must adhere to the principles of natural justice. There are certain principles ensuring within the parameters of natural justice, one of them is “*audi alterm partem*” which mandates that before taking any action against the party, they must be given an opportunity to be heard and present their case.

7. The right to be heard is the cornerstone of natural justice and in this regard in the case before the Hon’ble Uttarakhand High Court in 2022 regarding a practising advocate, Dushyant Mainali (CLR No.22/2022) wherein the Hon’ble High Court had observed that the said advocate

Mainali was accused of professional misconduct for allegedly misleading the litigant and causing the delay in filing revisional petition. The Hon'ble High Court directed the Bar Counsel of Uttarakhand to initiate disciplinary proceedings against the lawyer. Mainali challenged these remarks before the Hon'ble Supreme Court, contending that he was neither a party to the case before the High Court nor was involved in any capacity. The remarks, therefore, not only tarnished his professional reputation but were also made in clear violation of the principles of natural justice. The Hon'ble Apex Court in Civil Appeal No.15191/2022, arising out of a Special Leave Petition filed by Dushyant Mainali examined the Hon'ble High Court's order and found the approach to be legally untenable. Hon'ble Justice Gavai (as he was at that time) speaking for the bench, noted that "we are of the considered view that the approach of the High Court in making the observations against the appellant without giving him any opportunity of being heard is totally unsustainable in law." The bench went on to delete the entire portion of the high court's order that contained the contentious remarks and directives against Mainali, holding that that such a move violates the fundamental principles of fairness and due process.

8. That on examination of facts afore-stated, we are of the view that issuance of notice of hearing before any proceedings against the assessee is "sine-qua-non" for framing any order. The quasi-judicial authority has

been entrusted with power for exercising justice both substantive and equitable. When we say substantive justice, it is essentially means to whom the liability regarding payment of tax are to be imposed and the provision of law in which such tax determination is done by the said authority. The equitable justice essentially determines the facts and circumstances in which the particular liability has been imposed on the tax payer assessee and whether all the parameters have been complied with and considered before making the additions or enhancements etc.

9. That as has been pronounced in the binding decisions, providing opportunity of hearing to the assessee forms bedrock of the judicial system in dispensing justice, therefore, as has been examined that the enhancement has been made by the department without providing opportunity of hearing to the assessee. That at the same time, principles of natural justice are also applicable to the department. Therefore, if any mistake is committed advertently or inadvertently in not providing any opportunity to the assessee to place on record his case on merits, in such scenario, the department also deserves a right on equal parameters to be provided one opportunity so that they can rectify mistake and provide reasonable opportunity of hearing to the assessee.

10. Considering the aforesaid facts and circumstances, we set-aside the orders of the Ld. CIT(Appeals)/NFAC and remand the matters to its file for

denovo adjudication as per law complying with the principles of natural justice.

11. As per the above terms, the grounds of appeal of the assessee are allowed for statistical purposes.

12. In the result, both the appeals of the assessee are allowed for statistical purposes.

Order pronounced in the open court on 31st day of July, 2025.

Sd/-
ARUN KHODPIA
(ACCOUNTANT MEMBER)

Sd/-
PARTHA SARATHI CHAUDHURY
(JUDICIAL MEMBER)

रायपुर/ RAIPUR ; दिनांक / Dated : 31st July, 2025.
SB, Sr. PS

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

1. अपीलार्थी /The Appellant.
2. प्रत्यर्थी /The Respondent.
3. The Pr. CIT-1, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर बेंच, रायपुर / DR, ITAT, Raipur Bench, Raipur.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur.