



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

ITA Nos. 160/PAN/2025

Assessment Year : 2018-19

Herald publication Pvt. Ltd.
AG-6, Campal Trade Centre,
Opp. Taj Vivanta, H/H Mili,
Panaji, Goa-403001
PAN : AAACH4580K

..... *Appellant*

V/s

National Faceless e-Asstt. Centre,
Delhi.

..... *Respondent*

Appearances

Assessee by : None

Revenue by : Mr Sanket Deshmukh ['Ld. DR']

सुनवाई की तारीख / Date of conclusive Hearing : 18/08/2025

घोषणा की तारीख / Date of Pronouncement : 19/08/2025

ORDER

PER G. D. PADMAHSHALI;

The captioned appeal of the assessee impugns DIN & Order 1074921212(1) dt. 24/03/2025 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 penalty dt. 26/09/2023 passed u/s 270A of the Act by the National Faceless e-Asstt. Centre, Delhi ['Ld. AO' hereinafter] relating to assessment year 2018-19 ['AY' hereinafter].



2. The case was called twice, none appeared at the behest of the appellant assessee. The assessee's application seeking adjournment with an plea that, '*the chartered accountant is on tour and not expected to return before 30/09/2025*' did in our considered view fail to make out a case for adjournment, hence stands rejected. Having regard to limited issue of *ex-parte* dismissal for non-prosecution, with the able assistance from the Revenue we deem it to proceed in the absence of assessee *ex-parte* u/r 24 of ITAT-Rules, 1963 and adjudicate the limited issue. Recording the same, we advanced accordingly.

3. Succinctly stated facts of the case are that;

3.1 The assessee is a limited company in whose case assessment u/s 147 r.w.s. 144B of the Act was completed vide order dt. 28/03/2023 wherein the income of the assessee was determined to ₹3,01,10,330/- owing to additions viz; (i) disallowance u/s 43B and (ii) disallowance of u/s 371(1) of the Act. Consequent to such disallowance & determination of income u/s 147 r.w.s. 144B of the Act, a penalty proceedings u/s 270A of the Act were initiated. The assessee choose to remain silent. In the absence of rebuttal, the penalty proceeding ceased by imposing penalty equal to 50% of tax sought to have evaded by an order dt. 26/09/2023 u/s 270A of the Act. Aggrieved assessee attempted



to resolve the dispute in appeal before the Ld. NFAC, who in the event of non-prosecution dismissed the appeal *ex-parte in limine*.

3.2 Thus aggrieved thereby the assessee came in present appeals on ten grounds which are inconsonance with rule 8 of ITAT-Rules, hence reproduction thereof is dispensed with.

4. Without touching grounds and merits of the case; we have heard the Ld. DR 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)],

5. 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 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 the appeal on merits considering all relevant facts and evidence. 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 restore file to 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.

7. 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**

Panaji/Dt: 19th August, 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 |

-S/d-

**G. D. PADMAHALI
ACCOUNTANT MEMBER**

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