



IN THE INCOME TAX APPELLATE TRIBUNAL, RAIPUR BENCH, RAIPUR
(through hybrid hearing)

BEFORE HON'BLE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER
AND

SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER

ITA No. 426 & 427/RPR/2025
Asstt. Year.: 2019-20 & 2020-21

Tridev Ispat Private Limited,
866-869, Village Sarora Urla Industrial Area,
Raipur-492001, Chhattisgarh
PAN: AACCT7703J

.....**Appellant**

V/s

DCIT, Central Circle (2),
Raipur

.....**Respondent**

Appearances

Assessee by: Mr Subash Agarwal ['Ld. AR']

Revenue by: Dr. Priyanka Patel ['Ld. DR']

Date of conclusive Hearing : 15/09/2025

Date of Pronouncement : 16/09/2025

ORDER

PER G. D. PADMAHSHALI,

These twin appeals are filed by the assessee impugning DIN & Order No. ITBA/APL/S/250/2024-25/1075333426(1) & 1075332848(1) both dt. 31/03/2025 passed by the Commissioner of Income Tax, Appeal, Raipur-3, ['Ld. CIT(A)' hereinafter] u/s 250 of the Income-tax Act, 1961 ['the Act' hereinafter].



2. Since facts involved in this bunch of appeals and limited issue dealt with therein are common & identical, on rival party's common requests these appeals for the sake of brevity & convenience are heard together for being disposed-off by common & consolidated order.

3. The adjudication laid in succeeding paragraphs of this order in lead case ITA No 426/RPR/2025, shall mutatis mutandis apply to remaining captioned appeal and be read & treated accordingly.

4. At the outset, after vouching sufficiency of reasons beyond undeliberate delay of 40 & 41 days in instituting these twin appeals, we after placing reliance on '*Vijay Vishin Meghani Vs. DCIT & Anr*' reported 398 ITR 250 (Bom) and '*Collector, Land Acquisition, Anantnag and Anr. Vs Ms Katiji and Others*' reported at 167 ITR 5 (SC), in the larger interest of justice deem it fit to condone the same and proceed to adjudicate the limited issue of *ex-parte* dismissal of first appeal by the Ld. CIT(A), recording the same, we advanced accordingly.



5. Briefly stated common facts of twin cases are that; the assessee is engaged in manufacturing of ingots whereupon a search & seizure action u/s 132 of the Act was conducted on the residential and business premises of the assessee on 22/01/2019. During the course of search and seizure action, it was revealed that; (i) during the year AY 2019-20 the assessee incurred and paid cash expenses exceeding limit prescribed u/s 10A(3) of the Act to various parties and the entries into books were recording by splitting such transaction and (ii) shortage in the inventory/ stock held by it for AY 2020-21. Consequent to stated search action, the case of the assessee for AY 2019-20 taken up for re-assessment u/s 153A of the Act and for AY 2020-21 taken up for scrutiny respectively. After considering the submission of the assessee, the assessment in these twin cases were completed by consolidated & common order passed u/s 153A/143(3) of the Act by the Asstt. Commissioner of Income Tax, Central Circle-2, Raipur [‘Ld. AO’ hereinafter]. And pursuant thereto separate penalty proceedings u/s 270A and 271AAB of the Act were initiated for respective AY.



AY 2019-20

6. The assessment in this case was completed wherein addition of ₹3,60,400/- was made for violation of provisions of section 40A(3) of the Act. Pursuant thereto a notice u/s 274 r.w.s. 270A of the Act was issued and in the absence of convincing explanation a penalty equal to 200% of tax sought to have evaded on account of under-reporting of income in consequence of mis-reporting was levied by an order dt. 27/03/2022 framed u/s 270A of the Act.

AY 2020-21

7. The assessment in this case was completed u/s 153A of the Act wherein addition of ₹12,96,791/- was made representing gross profit @4% of negative stock found in search & seizure operation. Pursuant thereto a notice u/s 274 r.w.s. 271AAB of the Act was issued and in the absence of convincing explanation a penalty equal to 60% of tax sought to have evaded on undisclosed income (gross profit) was levied by an order dt. 30/03/2022 framed u/s 271AAB of the Act.



8. The assessee by a separate appeals u/s 246A of the Act assailed former levy of penalty before the Ld. CIT(A), which were adjudicated *ex-parte* and dismissed. Aggrieved thereby the assessee came in present separate appeals u/s 251 of the Act challenging the first appellate adjudications on common grounds of violation of principle of natural justice & on merits as well.

9. Without touching common grounds of appeals & merits of these twin cases we have heard the rival parties on the limited issue of *ex-parte* dismissal and subject to rule 18 of ITAT-Rules 1963 perused material placed on record.

10. Insofar as the AY 2019-20 is concerned, we note that in first appellate proceedings, Ld. CIT(A) issued two notices one after other dt. 12/03/2025 and 21/03/2025 by fixing the hearing date respectively to 17/03/2025 & 24/03/2025 and was summoned the assessee to produce evidential documents in support of grounds appeals raised, which however remained unattended. In the event the Ld. CIT(A) proceeded *ex-parte* and dismissed the appeal.



11. Likewise for AY 2020-21 in the course proceedings, Ld. CIT(A) issued two notices one after other dt. 11/03/2025 and 20/03/2025 by fixing the hearing date respectively to 17/03/2025 & 24/03/2025 and was called upon the assessee to produce evidential documents in support of grounds appeals raised, which however remained to be complied. In the event the Ld. CIT(A) proceeded *ex-parte* and dismissed the appeal.

12. We observed that, in these twin cases, the opportunity of hearings was granted barely twice and indisputably affording less than a period of fifteen clear days from the date of notice to comply. These opportunities are ostensibly capable of suggesting on record that, these were much less meant for providing real and obvious opportunities but to create a paper trail to showcase compliance of principle of natural justice.

13. It shall be worthy to underline that the opportunity of being heard should be real, reasonable and effective and the same should not be empty or paper formalities, it should not be a paper opportunity. It is a settled & accepted principle that, any



opportunity granted with a period less than a period of fifteen clear days falls out from '*reasonable period*', thus from sufficiency of reasonable opportunity.

14. The Hon'ble High court of Patna judgement in '*St. Paul's Anglo-Indian Education Society*' [2003) 262 ITR 377 (Pat)] has categorically held that, an adjudication is unjustified if an assessee was deprived of reasonable opportunity and reasonable time to produce all relevant documents to substantiate claims made in the return of income.

15. In the instant twin appeals, the Ld. CIT(A) issued two notices in each cases in a row which since accorded less than a reasonable period of fifteen clear days to comply had the effect of depriving the assessee from reasonable opportunity and reasonable time to produce all relevant documents/evidence in support of grounds of appeals raised, thus in our considered view the impugned first appellate proceedings suffered from compliance of principle of natural justice which is the spine for settling tax litigation/disputes.



16. In consequences thereof the impugned adjudications in our considered view have rendered irregular cannot be continued. For the reasons we deem in all the fairness and in the larger interest of justice necessary to accord one more opportunity to the appellant assessee to comply with notices and contest first appeals on merits before the Ld. CIT(A), which can only be possible on remand of these cases. In view of this, without offering any comments on merits of these cases, we set-aside the impugned orders and remit these files back to the stage of their institution before Ld. CIT(A) with a direction deal therewith *de-novo* and pass a speaking order u/s 250(6) of the Act.

12. In result, these twin appeals of the assessee are 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-

PARTHA SARATHI CHAUDHURY
JUDICIAL MEMBER

Raipur/Dt: 16th September, 2025.

Copy of the Order forwarded to :

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|-------------------|---------------------------|
| 1. The Appellant. | 2. The Respondent. |
| 4. PCIT Concerned | 5. DR, ITAT, Raipur Bench |

-S/d-

G. D. PADMAHSHALI
ACCOUNTANT MEMBER

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|------------------------------|
| 3. The CIT(A)/NFAC Concerned |
| 6. Guard File |

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