

आयकर अपीलीय अधिकरण “ए” न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH, PUNE

BEFORE SHRI R.K. PANDA, VICE PRESIDENT
AND
MS. ASTHA CHANDRA, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.1204/PUN/2025
निर्धारण वर्ष / Assessment Year : 2015-16

Manisha Dhananjay Holkar, Holkarwadi, 25 Lasalgaon, Tal.-Niphad, Nashik-422306 PAN : ADGPH8596R	Vs.	ITO, Ward-1(1), Nashik
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

Assessee by :	Shri Ronak H Jain
Department by :	Shri Vidya Ratan Kishore
Date of hearing :	03-09-2025
Date of Pronouncement :	30-09-2025

आदेश / ORDER

PER ASTHA CHANDRA, JM :

The appeal filed by the assessee is directed against the order dated 11.03.2025 of the Ld. Commissioner of Income Tax (Appeals)/NFAC, Delhi [**“CIT(A)”**] pertaining to Assessment Year (**“AY”**) 2015-16.

2. The assessee has raised the following grounds of appeal :-

- “1. The learned CIT(A)/NFAC has passed an ex parte order without considering the facts and documents already on record, which is a violation of Section 250(6) of the Income-tax Act, 1961. As per Section 250(6), it is mandatory for the CIT(A) to pass a reasoned and speaking order after considering the facts and circumstances of the case, irrespective of whether the assessee is present during the hearing. The failure to do so renders the order bad in law and liable to be set aside. Relief may please be granted.
2. On the facts and circumstances of the case and in law, the learned Commissioner of Income Tax (Appeals) [CIT(A)]/NFAC has erred in upholding the addition of ₹73,04,416/- made under Section 147 r.w.s 144 of the Income-tax Act, 1961 without considering that the assessee had deposited cash in the bank out of sales proceeds, and treating such deposits as unexplained income is erroneous and contrary to law. Relief may please be granted.

3. *The learned CIT(A)/NFAC has further erred in disallowing genuine business purchases, without verifying their legitimacy, which is arbitrary, unjustified, and bad in law. Relief may please be granted.*
4. *The learned CIT(A)/NFAC has erred in completing the assessment proceedings by completely disregarding submissions made by the appellant assessee.*
5. *The learned Assessing Officer (AO) and CIT(A)/NFAC have erred in initiating and sustaining penalty proceedings under Sections 270A and 271AAC without proper appreciation of facts and legal position Relief may please be granted.*
6. *The appellant craves leave to add and or alter any of the grounds of appeal before or at the time of hearing.”*

3. Briefly stated the facts are that the assessee is an individual. She was initially engaged in the business of trading in fertilizers and manure. Upon the lapse of her fertilizer trading license, she transitioned her business operations to the trading of Distillers Wet Grain Soluble (DWGS). She did not file her return of income for AY 2015-16. Based on the information available through ITBA software under the head “NMS cases”, the case of the assessee was reopened by issue of notice u/s 148 of the Income Tax Act, 1961 (**the “Act”**) on 04.04.2022 for the reason the cash deposit of Rs.73,04,416/- was made in State Bank of India during the relevant AY. In response to the said notice, the assessee filed her return of income on 05.08.2023 declaring income of Rs.6,08,520/- and a total turnover of Rs.75,10,000/-. Statutory notices were accordingly issued u/s 142(1) of the Act. In response, the assessee submitted that the said turnover was duly reflected in the assessee’s bank account through cash deposits. However, Ld. Assessing Officer (**“AO”**) failed to consider and verify the same and completed the re-assessment u/s 147 r.w.s. 144B of the Act on 10.03.2024 by making addition of Rs.73,04,416/- on account of unexplained money u/s 69A of the Act.

4. Aggrieved, the assessee carried the matter before the Ld. CIT(A)/NFAC. The Ld. CIT(A)/NFAC in his appellate order noted that various notices of hearing were issued to the assessee requiring the assessee to submit the details along with supporting documents/evidence in respect of her claim. In the absence of any response to the said notices, the Ld. CIT(A)/NFAC observed that the assessee seems to be not interested in pursuing the appeal and therefore dismissed the appeal by observing as under:

“6. The appellant has not responded to the hearing posted. The appellant has neither filed any adjournment letters nor any submissions in support of its grounds of appeal. As has been brought out above, it is evident that the appellant

is not interested in filing any details during the appellant proceedings and avail the opportunity of being heard under the principle of natural justice. In response to the notices issued, the assessee remained non-responsive and even adjournment was not sought. In such a situation, the only conclusion which can be drawn is that the appellant is not interested in pursuing the appeal.

7. It has been held by the Hon'ble Supreme Court in the case of B.N. Bhattacharjee and Another (118 ITR 461) (at pages 477 & 478) that appeal does not mean merely filing of memo of appeal but also pursuing it effectively. In cases where the appellant does not want to pursue the appeal, appellate authorities have inherent power to dismiss the appeal for nonprosecution as held by the Hon'ble Bombay High Court in the case of M/s Chemipol vs. Union of India in Excise Appeal No. 62 of 2009.

8. This appeal has been filed by the appellant claiming that the action of the Assessing Officer is not supported by facts and laws and that it is unjust. In such a situation, it is for the appellant to furnish submissions with relevant evidence(s), case laws, if any, to support the claim. The 'burden of proof is always on the person who makes the claim. In this case, it is the appellant who has made the claim by filing the appeal. Where, the assessee claims exemption, the burden is on the assessee to prove it to be exempt. Same is the position in case of all allowances, deductions, claims or loss, etc. Since an appeal is nothing, but the claim of the appellant that he has been unduly unjustifiably taxed, it is for the appellant to prove its case. The appellant has not availed any opportunity to do so.

9. Since no attempt has been made by the assessee to submit documents, evidences and explanations in support of the grounds of appeal, the appeal cannot be entertained. Respectfully following the judicial pronouncements mentioned in para no. 7 (above) and in view of the facts of the case, the appeal is hereby dismissed.

10. In the result, the appeal of the assessee is dismissed."

5. Dissatisfied, the assessee is in appeal before the Tribunal and all the grounds of appeal relate thereto.

6. The Ld. AR submitted that the non-appearance/non-compliance before the Ld. CIT(A)/NFAC was not deliberate as the assessee being a woman entrepreneur from a rural background, was substantially reliant on her accountant for all compliance-related and technical matters. Unfortunately, due to the untimely demise of her accountant, several statutory and procedural compliances remained unfulfilled, owing to the assessee's lack of technical expertise and her complete dependency on the said accountant. The Ld. AR further submitted that the Ld. CIT(A)/NFAC has arbitrarily disallowed genuine business purchases without verifying the evidentiary material available on record, including the assessee's ledger accounts and bank statements. Although the assessee did not respond to the hearing notice, the Ld. CIT(A)/NFAC failed to consider the facts and documents already on record, which constitutes a violation of Section 250(6) of the Act. He submitted that the assessee has a strong case on merits and given an opportunity the assessee

is in a position to substantiate her case by filing the requisite details/documentary evidence before the Ld. CIT(A)/NFAC. He, therefore, prayed that in the interest of justice, the matter may be restored to the file of the CIT(A)/NFAC to decide the issues raised by the assessee afresh after affording an opportunity of hearing to the assessee.

7. The Ld. DR, on the other hand, heavily opposed the arguments advanced by the Ld. Counsel for the assessee and submitted that despite number of opportunities granted, the assessee never bothered to make any submission before the Ld. CIT(A)/NFAC. He accordingly submitted that the order of the Ld. CIT(A)/NFAC dismissing the appeal filed by the assessee should be upheld and the grounds raised by the assessee should be dismissed.

8. We have heard the rival arguments made by both the sides, perused the orders of the Assessing Officer and Ld. CIT(A)/NFAC and the paper book filed by the Ld. AR on behalf of the assessee. It is an admitted fact that despite number of opportunities granted, the assessee did not make any submission which constrained the Ld. CIT(A)/NFAC to dismiss the appeal filed by the assessee. The Ld. AR has submitted that there was no deliberate non-compliance but it resulted on account of reasons already mentioned in preceding paragraph. It is the submission of the Ld. Counsel for the assessee that in the interest of justice, the assessee may be given an opportunity to substantiate her case by filing the requisite details/documents before the Ld. CIT(A)/NFAC. Perusal of the appellate order reveals that the Ld. CIT(A)/NFAC has applied the decision in the case of *CIT Vs. B.N. Bhattacharjee and Another (supra)* and dismissed the appeal of the assessee for non-prosecution. No doubt, the Ld. CIT(A)/NFAC may decide the appeal *ex-parte* where the assessee does not prosecute his appeal in spite of several opportunities. None-the-less, he has to adhere to the legislative mandate enshrined in sub-section (6) of section 250 of the Act which requires him to state the points for determination, the decision thereon and the reason for the decision. We observe that the Ld. CIT(A)/NFAC has passed the order without himself going into the merits of the case. Thus, in our view, his order is in violation of the provisions of section 250(6) of the Act.

9. Considering the totality of the facts of the case and in the interest of justice and without going into the merits of the appeal, we deem it proper to set

aside the order of the Ld. CIT(A)/NFAC and restore the matter back to his file to decide the issue afresh on merits as per fact and law after giving one more opportunity of being heard to the assessee. The assessee is also hereby directed to appear before the Ld. CIT(A)/ NFAC on the appointed date and make his submissions without seeking any adjournment under any pretext failing which the Ld. CIT(A) / NFAC shall be at liberty to pass appropriate order as per law. We hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

10. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 30th September, 2025.

Sd/-
(R.K. Panda)
VICE PRESIDENT

Sd/-
(Astha Chandra)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 30th September, 2025.
रवि

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच,
पुणे / DR, ITAT, "A" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune