



IN THE INCOME TAX APPELLATE TRIBUNAL, PANAJI BENCH, PANAJI



BEFORE HON'BLE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER

AND

SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER

ITA Nos. 249/PAN/2024

Assessment Year : 2010-11

Lalji Purushottam Dabhoyya
123/1, Hill View Co-op. Hsg. Soc.,
Altinho, Panaji, Tiswadi-Goa.
PAN:ABAPD1169Q

..... Appellant

V/s

Income Tax Officer,
Ward-1(1), Panaji.

..... Respondent

Appearances

Assessee by : Mr RK Pikale ['Ld. AR']

Revenue by : Ms Deepali Kalbandhe ['Ld. DR']

Date of conclusive Hearing : 13/02/2025

Date of Pronouncement : 14/02/2025

ORDER

PER G. D. PADMAHSHALI, AM;

The assessee by the present appeal impugns DIN & Order No. ITBA/NFAC/S/250/2024-25/1067636213(1) dt. 14/08/2024 passed u/s 250 of Income-tax Act, 1961 ['the Act' hereafter] by National Faceless Appeal Centre, Delhi ['Ld. NFAC' hereafter] which in turn arisen out of order of assessment dt. 17/08/2016 passed u/s 143(3) r.w.s. 263 of the Act for assessment year 2010-11 ['AY' hereafter] by the Income Tax Officer, Ward-1(1), Panaji, Goa. ['Ld. AO' hereafter].



2. At the outset of hearing, the Ld. AR Mr Pikale inviting our attention to paper book submitted that, challenging the assessment the assessee filed an appeal physically before jurisdictional Ld. Commissioner of Income Tax Appeals-1, Panaji ['Ld. CIT(A)' hereafter] on 10/03/2017 and the same was admitted vide Appeal No. 'CIT(A)-Panaji-1/10529/16-17'. In relation to such pending appeal the assessee filed certain additional evidences on 18/06/2018 and 03/07/2018 which were confronted for verification to Ld. AO & remand report was called therefore. Subsequent to migration of appeal to faceless regime the pending appeal of the assessee was assigned to the Ld. NFAC who dismissed the appeal *in-limine* as barred by limitation. While dismissing said appeal of the assessee the Ld. NFAC however did not take into account all the evidences & condonation petition filed by the assessee in physical/manual mode. Therefore, the assessee seeks to set-aside the impugned order for remand with a direction to deal therewith a fresh.



3. *Per contra* the Ld. DR Ms Kalbandhe without disputing the former facts, has contended that, under faceless regime the appellant did neither respond to any of the notices served to it nor had brought to the notice of Ld. NFAC that in his case physical submissions on earlier occasions were made before the Ld. CIT(A), Panaji. Consequently the Ld. NFAC had no choice but to proceed on the basis of material available before it. Such conscious failure solitarily attributable to appellant's non-persuasion. May as it be, even in the present second appellate proceedings the assessee is indifferent in failing to place on record before this Tribunal any cogent and convincing evidences in support of his claim for having '*sufficient reasons*' behind his failure in instituting the appeal u/s 249 of the Act within the statutory period of 30 days from the date of order communicated by the Revenue. In view therefore, the payer of the assessee is meritless thus, deserves to be turned-down and in result instant appeal needs to be dismissed.



4. We have heard rival submission; perused the material placed on record in light of rule 18 of ITAT-Rules 1963 and we note that, against the order of assessment dt 17/08/2016 framed u/s 143(3) r.w.s. 263 of the Act the appellant filed appeal to Ld. CIT(A) in form no 35 manually, accompanying therewith copy of (a)assessment order (b) statement of facts, (c) grounds of appeal & (d) fees challan etc. Upon their receipt the jurisdictional Ld. CIT(A), Panaji registered the same vide ***‘Appeal No. CIT(A)-Panaji-1/10529/16-17.*** In pursuance thereof, the appellant adduced certain evidential material based on which assessee was partially heard prior to migration of proceedings to faceless regime. It is also on record that, vide letter dt. 19/01/2017 the appellant sought to condoned delay in instituting said appeal which was endorsed by the Revenue as received on 15/02/2017. On the other hand, on migration of proceedings to faceless regime neither the Revenue nor the appellant could take any step in uploading the erstwhile records/submissions for adjudication. This led to sheer



confusion and solitary reasons for dismissal of appeal *in limine* which in result failed determining the rights & liabilities of either party on merits effectively. Having considered these facts in wholesome, in the larger interest of justice we deem it fit to set-aside the impugned order for its remand to the Ld. NFAC at the stage of its institution u/s 249 of the Act, with a direction to (a) consider a petition for condition of delay a fresh and (b) accordingly adjudicate the issue on merits in accordance with law after according three effective opportunities. *Ergo*, ordered accordingly. Ground No. 2 of appeal raised in Form no 36 accordingly stands allowed.

5. In result, the appeal stands partly allowed for statistical purposes in aforesaid terms.

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

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

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

Panaji/Dt: 14th February, 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, Panaji | 6. Guard File |

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