



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**

Sr	ITA No	Assessment Year	Appellant	Respondent	PAN
1	037/PAN/2024	2013-14	Ashirwad Wines	Dy. Commissioner of Income Tax, Central Circle, Belagavi.	AAJFA6623N
2	038/PAN/2024	2014-15			
3	039/PAN/2024	2016-17			
4	040/PAN/2024	2017-18			
5	041/PAN/2024	2018-19			

Appearances

Assessee by: Mr BS Balachandran ['Ld. AR']

Revenue by: Capt. Pradeep Arya ['Ld. DR']

सुनवाई की तारीख / Date of conclusive Hearing : 01/07/2025

घोषणा की तारीख / Date of Pronouncement : 02/07/2025

ORDER

PER G. D. PADMAHSHALI(AM);

The assessee's captioned bunch of appeals is filed u/s 253(1) of the Act of the Income-tax Act, 1961 ['the Act'] challenges respective separate orders passed by the Ld. Commission of Income Tax Appeals-2, Panaji Goa ['Ld. CIT(A)'] u/s 250 of the Act involving five assessment years 2013-14 to 2018-19['AY'], which emanated respectively from separate orders passed by



the Dy. Commissioner of Income Tax, Central Circle, Belgavi [‘Ld. AO’] u/s 153C of the Act.

2. Since facts involved in this bunch of appeals and issue dealt therein are common & identical and since arising out of a common search, on rival party’s request these appeals for the sake of brevity & convenience are heard together for being disposed-off by this common & consolidated order.

3. In adjudicating these matters together, the first appeal listed at Sr No 1 viz; ITA No. 037/PAN/2024 is taken as lead case, resultantly our adjudication laid in succeeding paragraphs shall *mutatis-mutandis* apply to remaining appeals listed at Sr. No 2 to 5.

4. At the outset we note that, against respective impugned orders these appeals are filed with a delay of 176 days. The reasons behind such delay in instituting respective appeals within the statutory



time limit have been explained through affidavit dt. 22/02/2024. After vouching facts, circumstances & reasons and sufficiency thereof etc., we are satisfied that said delay in filing appeals was accidental & undeliberate. We therefore of the considered view that, for a sufficient cause appellant was prevented from filing these appeals within the statutory time limit and since these cases falls within the parameter set by Hon'ble Courts in '*Vijay Vishin Meghani Vs. DCIT & Anr*' [2017, 398 ITR 250 (Bom)] and '*Collector, Land Acquisition, Anantnag and Anr. Vs Ms Katiji and Others*' [1987, 167 ITR 5 (SC)], we placing reliance thereon, in the larger interest of justice have condoned the delay and advanced for adjudication.

5. Without touching grounds & merits of additions, we have heard rival party's common submissions on the ground concerning denial of personal hearing by



the Ld. CIT(A) and subject to rule 18 of ITAT-Rules 1963 perused material placed on record.

ITA No. 037/PAN/2024

6. As we note that, as against the order of assessment dt. 07/04/2021 passed u/s 153C of the Act the appellant assessee filed an appeal before Ld. CIT(A) on 06/05/2021. In response to notices issued in the course of first appellate proceedings the appellant through its representative made written submissions vide online mode. In the course of such online proceedings, vide latest notice the appellant was asked to clarify the issues under adjudication latest by 30/08/2023, which vide letter dt. 24/08/2023 was replied online on 28/08/2023 accompanying therewith a specific request for grant of **personal hearing**. By the impugned order dt. 31/08/2023 passed order u/s 250 of the Act the Ld. CIT(A) however culminated the appellate proceedings



without granting a hearing or dealing with request but after due consideration of written submission. The inaction on the part of Ld. CIT(A) to deal with the written request for personal/physical hearing thus violated principle of natural justice and for the solitary reason the appellant seeks to set-aside the impugned order with a request for *de-novo* adjudication in light of material placed on record.

7. The '*strict rule of evidence*' does not apply to tax proceedings; hence assessee tries & makes every possible attempt to place such evidences which could inspire tax authorities. While taking cognizance of assessee's such evidences, adjudicating authorities are duty bound to convey negative inference if any drawn before passing adverse order thereon. In the hindsight if assessee pre-emptively requests for personal hearing to negate any adverse inference



been possibly drawn from such evidences, then also authorities are duty bound to deal therewith either deciding it conclusively by granting or rejecting it with a reasons as to why such personal hearing considered not necessary. Both inactions viz; (i) in according personal hearing while inferring negatively for varying returned income or (ii) in dealing with specific request for personal hearing, shall in our view lead to violation of principle of natural justice.

8. In case of '*Pico Capital Pvt Ltd. Vs DCIT*' [2024, 460 ITR 508 (Bom)] where a request for personal hearing was denied and assessment was framed, the Hon'ble Jurisdictional High Court while quashing & setting-aside assessment held that, personal hearing is critical aspect of natural justice, especially when explicitly provided for by law. The denial of personal hearings undermines taxpayer's ability to present &



argue case effectively. While coming to aforesaid conclusion their Hon'ble Lordships have placed reliance on golden old case law '*John Vs Rees*' [1970, 1-Ch-D-345] highlighting that, even seemingly straightforward cases require adherence to natural justice principles to prevent arbitrary decisions.

9. In a case where the Revenue rejected assessee's reply & confirmed demand as per show-cause notice. On a tax Writ, the Hon'ble Allahabad High Court in '*K. J. Enterprises v. State of UP*' [Writ Tax No. 1544/ 2022, dt. 01/02/2024], observed that order confirming demand was passed without granting an opportunity to refute negative inference drawn from taxpayers reply. The failure to accord an opportunity of personal hearing to the taxpayer was a gross violation of principles of natural justice. Consequently it was held that, an adverse order cannot be passed without



granting an opportunity of personal hearing to the taxpayer. A similar ratio also reiterated by the Hon'ble Jurisdictional Bombay High Court in '*Nikhil Chandrakant Dharia Vs ITO*' [2024, 469 ITR 262].

10. The denial of personal hearing was agitated in Writ in '*Balraj Hire Purchase (P.) Ltd. Vs NFAC*' [2021, 128 taxmann.com 190 (Del)] wherein Revenue contended that assessee's reply to show cause notice-cum-draft assessment order was considered, hence the outcome would have been same even if AO had granted a personal hearing. The Hon'ble Court rejected the Revenue's contention and held that, where income to be varied on the basis of evidences submitted by assessee, then grant of personal hearing to such assessee is must. In the event of failure to accord personal hearing when specifically requested for, is a clear breach of principles of natural justice.



11. A similar ratio of the Hon'ble Delhi High Court can be found in '*Sanjay Aggarwal Vs NFAC*' [2021, 127 taxmann.com 637 (Del)].

12. In the present case, there was a search on 'Bhate Group' pursuant to which assessments u/s 153C of the Act in the hands of assessee were framed. These assessment were framed during outbreak of COVID-19 pandemic. Separate appeals thereagainst were filed and appellate proceeding also commenced during COVID-19 pandemic. By latest hearing dt. 30/08/2023 (the only notice on record) the appellant was called upon to prove claims made against assessment which the appellant replied by written submission with a request for personal hearing to clarify & explain. The Ld. CIT(A) considered the written submission while arriving the decision on appeals, however turned blind eye to appellant's



request for personal hearing. The inaction of Ld. CIT(A) to deal with appellant's specific request for personal hearing, since violative of principle of natural justice, therefore impugned order in view of the former judicial precedents deserves to be set-aside for its remand with a direction to accord '*effective personal hearing through virtual mode*' and deal therewith *de-novo* on the basis of material and evidences already brought on records. Ordered accordingly.

13. These appeals in result partly allowed for statistical purpose in aforestated terms.

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

-S/d-
PAVAN KUMAR GADALE
JUDICIAL MEMBER

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

Panaji/Dt: 02nd July 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 |

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