

IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, NAGPUR

BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER

ITA no.515/NAG/2025
(Assessment Year :2017-18)

Jalendra Krishnarao Poyam,
Prop. Nilanjay Services
Akola -444701,
Maharashtra.
PAN-AMXPP2443H

..... Appellant

v/s

DCIT,
Saturna,
Amravati-444601,
Maharashtra,

..... Respondent

Assessee by:Shri.Ratan Sharma.AR
Revenue by :Shri.Surjit Kumar Saha. Sr.DR

Date of Hearing – 13/10/2025

Date of Order – 14/10/2025

ORDER

The assessee has filed the appeal against the order dated 28/06/2024, passed by the Addl/JCIT(A)-1, Kolkata, u/sec 143(3) and u/sec250 of the Income Tax Act, 1961 (for short "*the Act*") for the A.Y. 2017-18. The assessee has raised the following grounds of appeal:-

"1. Whether the appeal order passed by Ld CIT-appeals, NFAC is valid in law and on facts without service of notice of hearing on registered email of assessee and thereby in violation of principles of law of natural justice.

2. Whether the Ld CIT-appeals is correct in law & on facts in confirming addition of Rs. 1,25,349/ on account of difference between amount appearing in Form 26AS and as declared by assessee, inspite the salary

income as per Form 16 issued by employer and as shown by assessee duly matches.

3. Whether the Ld CIT-appeals is correct in law & on facts in confirming the disallowance u/s 40(a)(ia) for non deduction of TDS on interest paid amounting to Rs. 36,222/- & 93,377/- to Cholamandalam Finance Ltd & Indusind Bank respectively without appreciating the fact that assessee submitted Form 26A before LdAO thereby can not be treated as assessee in default and no TDS is applicable on interest paid to Indusind Bank being a scheduled Bank.

4. The appellant craves leave to add, amend, alter, modify or delete any of the grounds of appeal at the time of hearing."

2. At the time of hearing, the Ld.AR of the assessee submitted that there is a delay in filing the appeal before the Hon'ble Tribunal and the assessee has filed an affidavit for condonation of delay explaining the sufficient cause. Whereas the facts mentioned in the Affidavit are reasonable and the learned D.R. has no specific objections. Accordingly, the delay is condoned and the appeal is admitted.

3. The brief facts of the case are that, the assessee is an individual and is engaged in the business of Petrol Pump. The assessee has filed the return of income for the A.Y. 2017-18 on 13/01/2018, disclosing a total income of Rs.21,86,480/-. Subsequently the case was selected for scrutiny under CASS and notice u/sec 143(2) and 142(1) of the Act along with questionnaire was issued and the assessee has filed the details and information through ITBA Portal. The Assessing Officer has dealt with information and find that there is a difference in salary as per 26AS and Form no.16 issued by the employer and assessee was asked to explain the difference of Rs.1,25,349/- and the assessee has filed the

explanations on this disputed issue dealt at page 2 of the order and the A.O was not satisfied with the explanations and made the addition. Similarly, the Assessing Officer found that the assessee has paid the interest to the financiers M/s. Cholamandalam Investment and Finance Co. Ltd., Chennai and IndusInd Bank Ltd. and as per tax audit report the assessee has not deducted TDS, therefore, the Assessing Officer has invoked the provisions of sec40(a)(i) of the Act and made addition of Rs.1,29,599/-. Finally the Assessing Officer has assessed the total income of Rs.24,41,430/- and passed order u/sec143(3) of the Act dated 15/12/2019. Aggrieved the order, the assessee has filed the appeal before the CIT(A).

4. In appellate proceedings, the CIT(A) has considered the grounds of appeal, statement of facts, findings of the Assessing Officer and issued notices of hearing and since there was no compliance to the notices by the assessee, the CIT(A) considering the information on record has confirmed the action of the Assessing Officer and dismissed the appeal of the assessee. Aggrieved by the order of the CIT(A), the assessee has filed appeal before the Hon'ble Tribunal.

5. At the time of hearing, the Ld.A.R. for the assessee submitted that the CIT(A) has erred in sustaining action of the assessing officer overlooking the submissions of the assessment proceedings. Further, the Ld.AR emphasized that no notices were received by the assessee in the

appellate proceedings and also submitted that the assessee has a good case on merits and prayed for an opportunity to substantiate the claim with material evidences before the lower authorities. Per Contra, the Ld.DR relied on the order of the CIT(A).

6. Heard the rival submissions and perused the material available on record. The CIT(A) has dismissed the assessee's appeal, as there was no compliance to the notices issued on various dates referred at Page 2 of the order in the appellate proceedings. Further the CIT(A) is of the opinion that the assessee is not interested in prosecuting its appeal and has confirmed the action of the Assessing Officer. Whereas, the assessee has raised grounds of appeal challenging the disallowances made by the assessing officer. There could be various reasons for non-compliance by the assessee which cannot be ruled out. Hence, considering the facts, circumstances, and to meet the ends of justice, the assessee should be provided with one more opportunity for hearing. Accordingly, the order of the CIT(A) is set aside and restore the disputed issues to the file of the jurisdictional Assessing Officer to adjudicate issue afresh on merits and the assessee should be provided adequate opportunity of hearing and the assessee should also co-operate in submitting the information. And the grounds of appeal of the assessee are allowed for statistical purposes.

7. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 14/10/2025.

Sd/-
(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Nagpur; and
- (5) Guard file.

Pradeep J. Chowdhury
Sr. Private Secretary

True Copy
By Order

Sr. Private Secretary
ITAT, Nagpur

		Date	Initial	
1.	Dictated on	13.10.2025	}	Sr.PS
2.	Draft placed before author	13.10.2025		Sr.PS
3.	Draft proposed & placed before the second member	--		JM/AM
4.	Draft discussed / approved by Second Member	--		JM/AM
5.	Approved Draft comes to the Sr.PS/PS	13.10.2025	}	Sr.PS
6.	Date of pronouncement	14.10.2025		Sr.PS
7.	File sent to the Bench Clerk	14.10.2025		Sr.PS
8.	Date on which file goes to the Head Clerk			
9.	Date of dispatch of Order			