

IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, NAGPUR
BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER

ITA no.541/NAG/2025
(Assessment Year :2017-18)

Shaikh Mahmood Shaikh Chanda,
4, Ward no.4, Achalpur,
Pathrot -444808,
Maharashtra.
PAN – ALIPC0613Q

..... Appellant

v/s

Income Tax Officer,
Ward-4,
Aayakar Bhavan,
Amravati-444601,
Maharashtra.

..... Respondent

Assessee by: Shri.D.P. Lohiya.A.R.
Revenue by :Shri Surjit Kumar Saha.Sr.DR

Date of Hearing – 15/10/2025

Date of Order – 16/10/2025

ORDER

The assessee has filed the appeal against the order dated 24/06/2025, passed by the CIT(A)/ National Faceless Appeal Centre(NFAC), Delhi, under section 144 and u/sec 250 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. On the facts and circumstances of the case and in law, the appellant respectfully craves leave and prefer an appeal under section 253 of the Income Tax Act, 1961 ("the Act") against the order under section 250 dated 24/06/2025 passed by the Learned Commissioner of Income Tax (Appeals) NFAC ("referred to as Learned CIT(A)") against the assessment order dated 27/12/2019 passed by the Learned AO National Faceless

Assessment Centre, Delhi ("referred to as Learned AO NFAC") under section 144 r.w.s 147 of the Income Tax Act, 1961.

2. On the facts and circumstances of the case and in law, the Learned CIT(A) (NFAC) has erred in upholding the action of Learned AO NFAC, by passing the order under section 250 and order under section 144 r.w.s 147 of the Act which is Illegal, Invalid and bad in law.

3. The learned AO (NFAC) completed the assessment U/s 144 r.w.s 147 of the Income Tax Act, 1961, on 27/12/2019 without considering the facts and circumstances of the case and raised an unjust demand of Rs. 29,68,663/- was unverified, hence non-est.

4. On the facts and in the circumstances of the case and in law, the Learned AO (NFAC) has erred in making an addition of Rs. 28,45,500/- to the total income of the appellant, comprising Rs.27,25,500/- being cash deposits in the bank account and Rs. 1,20,000/- being the income declared in return. The cash deposits of Rs. 27,25,500/- represent receipts from third parties in the regular course of business activity, out of which only the commission income is the appellant own earnings and balance amount belongs to third parties and does not constitute the appellant's taxable income under the provisions of the Act. Therefore, the addition made is incorrect, both on facts and in law, and deserves to be deleted.

5. That on the facts and in the circumstances of the case, and in law, the Learned Assessing Officer (NFAC) has erred in not adjudicating the contentions raised by the appellant and in making an addition under Section 69 as unexplained investment and completed the assessment ex-parte under Section 144 read with Section 147 of the Income Tax Act, 1961 without following the principle of natural justice and also initiated the penalty proceedings under Section 271AAC separately. The addition made is unjustified and contrary to facts and law.

6. On the basis of facts and circumstances of the case and in law, the Ld CIT(A) NFAC has erred by making an addition of cash deposit amounting to Rs. 27,25,500/- under Section 69 of the Income Tax Act, 1961, to the total income of the appellant, without going into the facts of the case and without giving proper opportunity of being heard in this regards. The additions confirmed are unjustified, unwarranted and excessive.

7. The learned CIT(A) (NFAC) erred in law for not justified in proceedings for confirming the addition made U/s 69 of the Act, by the AO dismissing the grounds of appeal without following the judicial pronouncements awarded by the Honorable ITAT.

8. In the case of ANNASAHEB RAMESH CHHAGANLAL AJMERA NAGARI SAHAKARIPATSANSTHA LTD. vs. ASSISTANT COMMISSIONER OF INCOME TAX ITA No. 471/PUN/2024; Asst. yr. 2012-13 ITAT, PUNE 'A' BENCH "Considering the totality of facts and in the circumstances of the case

enumerated above and following the decision(s) of the Tribunal (supra) and in the absence of any contrary material brought on record by the Revenue to enable us to take a different view, we deem it fit in the interest of justice and fair play, without dwelling into the merits of the case, to set aside the impugned issue to the file of the Ld. CIT(A) for adjudication afresh on merits after allowing reasonable opportunity of being heard to the assessee who shall provide the requisite supporting terms of submitting the relevant documents/evidence as may be required/called upon on the appointed date without seeking any adjournment under any pretext, failing which the Ld. CIT(A)/NFAC shall be at liberty to pass appropriate order as per fact and law. We order accordingly. The grounds raised by the assessee are therefore, allowed for statistical purposes"

8. The Appellant humbly submits that the above-mentioned grounds may kindly be admitted and can be adjudicated on the basis of material on record or documents and submissions will be made by the appellant during the proceedings before this authority. The said goes to the roots of the matter and is require to be adjudicated in order to determine the correct tax liability of the Appellant.

9. That each grounds mentioned hereinabove are independent and without prejudice to each other.

10. The above grounds of appeal are mutually exclusive & without prejudice to each other. The appellant prays for leave to add, alter, amend and/or modify any of the grounds of appeal at or before the hearing of the appeal.

11. The appellant prays for appropriate relief based on the said grounds of appeal and the facts and circumstances of the case.

12. In the interest of the justice, it is therefore humbly requested that the said grounds of appeal may kindly be admitted and adjudicated and the Hon'ble Tribunal may decide on merits after providing the Appellant and opportunity of hearing the matter."

2. The brief facts of the case are that, the assessee has filed return of income for the A.Y. 2017-18 on 20.03.2018 disclosing a total income of Rs.1,20,000/-. Subsequently, the case was selected for scrutiny through CASS to make enquiry in to cash deposits in the assessee's bank account during the F.Y. 2016-17. The Assessing officer (A.O) has issued Notice u/sec143(2) and u/sec 142(1) of the Act along with

questionnaire to explain the sources of deposit and there was no compliance. Whereas the A.O. has issued notice u/sec133(6) of the Act on the Punjab National Bank and obtained bank statement of the assessee and made addition of cash deposits aggregating to Rs.27,25,000/- u/sec69 of the Act and assessed the total income of Rs.28,45,500/- and passed the order u/sec143(3) of the Act dated 27/12/2019. Aggrieved by the order, the assessee has filed the appeal before the CIT(A).

3. In the appellate proceedings, the CIT(A) found that there is a delay of 45 days in filing the appeal and the assessee could not explain the delay with sufficient cause and the CIT(A) has not condoned the delay and dismissed the appeal filed by the assessee in limine/ not maintainable. The assessee being aggrieved by the CIT(A) order, has filed the appeal before the Hon'ble Tribunal.

4. At the time of hearing, the Ld. A.R. for the assessee submitted that the CIT(A) has erred in not condoning the delay. The Ld.A.R. mentioned that the delay is not due to the deliberate act and the assessment was received on 13.02.2020 and the appeal was filed within the prescribed time limit. Further the assessee has a good case on merits and prayed for granting of opportunity to substantiate the case with evidences and information before the lower authorities. The Ld.AR substantiated the

submissions with the factual paper book. Per-contrā, the learned Departmental Representative relied on the order of CIT(A).

5. Heard the rival submissions and perused the material on record. Prima-facie, the sole grievance of the assessee that the learned CIT(A) has dismissed the appeal as not maintainable by overlooking the fact the assessee has a good case on merits. On a perusal of the CIT(A) order, the appellate authority has provided opportunity to explain the sufficient cause for the delay in filing the appeal and there was no proper compliance. Whereas the delay in filling the appeal before the CIT(A) by the assessee is supported with the sufficient cause that the assessment order was received on 13.02.2020 and the appeal was filed within the prescribed time limit and pragmatic approach should be considered for condonation of delay and accordingly the delay is condoned. Hence, considering the facts, circumstances, submissions of the Ld.AR 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 CIT(A) to adjudicate afresh on merits and the assessee should be provided adequate opportunity of hearing and the assessee should co-operate in submitting the information for early disposal of appeal. And the grounds of appeals of the assessee are allowed for statistical purposes.

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

Order pronounced on 16/10/2025 as per rule 34(5) of the ITAT Rules 1963

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