

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.1205/PUN/2025
निर्धारण वर्ष / Assessment Year : 2020-21

Aam India Manufacturing Corporation Private Limited, Gat No. 787 & 788, Village-Hunga, Supa, Taluka-Parmer, District-Ahmednagar-414301 PAN : AAGCA9388Q	Vs.	ITO, Ward-1, Ahmednagar
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

Assessee by :	Shri Saurabh Kulkarni
Department by :	Shri Amol Khairnar
Date of hearing :	03-09-2025
Date of Pronouncement :	31-10-2025

आदेश / ORDER

PER ASTHA CHANDRA, JM :

The appeal filed by the assessee is directed against the order dated 27.03.2025 of the Ld. Commissioner of Income Tax (Appeals)/NFAC, Delhi [“CIT(A)”] pertaining to Assessment Year (“AY”) 2020-21.

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

“On the facts and in the circumstances of the case and in law, the learned CIT(A) has:

Not providing the Appellant with a reasonable opportunity to be heard before passing the order hastily

1. *Erred in passing the order hastily within 27 days from the date of first hearing notice issued, which went unnoticed by the Appellant due to lack of access to the email account on which the notice was served, thus denying the sufficient time to the Appellant to respond to the notice;*
2. *Erred in failing to consider the detailed statement of facts submitted by the Appellant at the time of filing the appeal, which outlined specific errors committed by the learned AO in the assessment order dated 19 September 2023 (as elaborated in the grounds below):*
3. *Erred in concluding that the Appellant had merely filed an appeal without any intention of pursuing it further;*
4. *Erred in placing reliance only on Grounds of appeal and Statement of Facts and failing to consider the detailed submission filed by the Appellant*

before the AO which is available on the portal including audited financial statements and Tax audit Report;

5. Erred in making disallowance without any specific defects in audited financial statements and Tax audit Report only on presumption and conjectures which is against the principles of natural justice.

Without prejudice to the above grounds, the following grounds are raised on merits

Ad-hoc addition of INR 7,53,20,000 being 10% of total trade payables

6. Erred in sustaining an ad-hoc addition of INR 7,53,20,000 being 10% of total trade payables under section 41(1) of the Act
7. Erred in holding that the trade payables have not been fully substantiated through documentary evidences without appreciating the submissions filed by the Appellant;
8. Not appreciating that books of accounts are audited and accepted without any variation and hence, adjustment is not sustainable in the eyes of law,

Ad-hoc addition of INR 24,05,100 being 10% of total advances from customers

9. Erred in sustaining the ad-hoc addition of INR 24,05,100 being 10% of total advances from customers
10. Erred in holding that the advances from customer have not been fully substantiated through documentary evidences without appreciating the submissions filed by the Appellant;
11. Erred in not appreciating that books of accounts are audited and accepted without any variation and hence, adjustment is not sustainable in the eyes of law;
12. Erred in not appreciating that the income has already been offered to tax in subsequent years as per revenue recognition policy adopted by the Appellant leading to double taxation of the same income:
13. Erred in making the aforesaid addition without mentioning any section number under which addition is being made.

Short credit of Tax Deducted at Source ('TDS') of INR 2,56,500

14. Erred in sustaining the action of AO granting short TDS credit of INR 2,56,500 which is clearly visible in Form 26AS for the subject assessment year

Initiation of penalty proceedings under section 274 read with section 270A the Act

15. Erred in upholding the initiation of penalty proceedings by the AO as outlined above under section 274 in conjunction with section 270A of the Act.

Any consequential relief to which the Appellant may be entitled under the law in pursuance of the aforesaid grounds of appeal or otherwise, thus may be granted.

The Appellant craves leave to add, alter, vary, omit, substitute or amend the above grounds of appeal, at any time before or at, the time of hearing of the appeal, so as to enable the Hon'ble Tribunal to decide this appeal according to law.”

3. Briefly stated the facts are that, for AY 2020-21, the assessee filed return of income on 14.12.2020 u/s 139(1) of the Income Tax Act, 1961 (**the “Act”**) declaring total income at Rs. Nil. The return was processed u/s 143(1) of the Act with a refund of Rs.11,50,720/-. Subsequently, the case of the assessee was selected for scrutiny under CASS for the following reasons :

S. No.	Reason Code	Reason Description
1	CG02.05	Sale consideration of the property in ITR is less than sale consideration of property reported in SFT
2	BA01.02	Large difference in the opening stock of current year (in Trading & Manufacturing account) and Closing stock of previous year (in Trading & Manufacturing account a/c as per Return of Income)
3	BL06.01	High Liabilities as compared to low income/receipt.
4	BE12.03	Large business loss set off against other heads of income.
5	TP12.01	High risk International Transactions (TP risk parameter)
6	CG02.01	Property sold at a consideration (shown in ITR) less than the value as per Stamp authority) (u/s 50C or any other relevant section)
7	TP03.01	International transactions in respect of lending or borrowing of money(TP Risk parameter)
8	BE02.01	Depreciation claimed at significantly higher rates/Large additional depreciation claimed.

3.1 Accordingly, notices u/s 143(2)/143(1) of the Act were issued and served upon the assessee, followed by a show cause notice, in response to which, the assessee filed either full or part reply as mentioned by the Ld. Assessing Officer (**“AO”**) in the assessment order. The Ld. AO completed the assessment u/s 143(3) r.w.s. 144B of the Act at assessed income of Rs.7,77,25,100/- by making an addition of Rs.24,05,100/- on account of ‘advance from customers’ and Rs.7,53,20,000/- on account of ‘disallowance of trade payable’ vide its order dated 19.09.2023 passed u/s 143(3) r.w.s. 144B of the Act.

4. Aggrieved, the assessee carried the matter before the Ld. CIT(A)/NFAC. There was non-compliance by the assessee to the various notices issued by the

Ld. CIT(A)/NFAC. The Ld. CIT(A)/NFAC therefore dismissed the appeal of the assessee for non-prosecution without deciding the appeal on merits, by observing as under:

“4 During the course of the appellate proceedings, the appellant has not made any compliance to the notices issued the detail of which are as under:

Sl. No.	Date of Notice	Compliance Date	Whether Compliance received
1	28.02.2025	07.03.2025	No Compliance
2	13.03.2025	19.03.2025	No Compliance
3	20.03.2025	26.03.2025	No Compliance

4.2 As has been brought out above, it is evident and clear that the appellant is not interested in filing any details during the appellate proceedings and avail the opportunity under the principle of natural justice. No any written submissions were filed. In such situation, the only conclusion which can be drawn is that the appellant is not interested in pursuing the appeal.

4.3 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 the appeal for non-prosecution 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.

4.4 Furthermore, 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. Thus, in cases where a particular receipt is sought to be taxed as income, the initial onus is on the Assessing Officer to prove that it is taxable. Where, however, the appellant claims exemption, the burden is on the appellant 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/penalized, it is for the appellant to prove its case. The appellant has not availed any opportunity to do so.

4.5 It is, thus, evident that the appellant has no evidence to substantiate the grounds taken and it has not even once argued with any supporting, relevant and cogent arguments/averments, constraining me to, therefore, go through the extremely brief non-speaking submission appearing in the grounds of appeal and statement of facts filed along with the impugned appeal to decide on the merits while adjudicating the same. Therefore, I am constrained to concur with the AO's findings of fact and decisions thereof, more particularly in the absence of any meaningful and worthwhile submissions/documentations even during the instant appellate proceedings in this case to counter effectively the position adopted by the AO on the concerned issues and reduced in writing in the assessment order.

4.6 Before parting, it is trite that an appellate authority is essentially called upon to balance the two sides of an argument presented before him as held in Nirmal Singh and Others of the Hon'ble Punjab and Haryana High Court (Cr No. 3791 of 2013 (O&M) dated 01.05.2014) and in the absence of any reasonable, cogent and valid arguments/contentions advanced by the appellant in the instant appeal to counter the AO's decision as contained in the assessment order, as mentioned earlier, the additions/disallowances made by the AO is sustained in terms of the observations herein-above.

5. In the result, the appeal of the appellant 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. He submitted that the notices of hearing went unnoticed by the assessee due to lack of access to the email account on which the notices were served. He submitted that the assessee has a strong case on merits and given an opportunity the assessee is in a position to substantiate its case by filing all 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 before him afresh on merits, 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. It is an admitted fact that despite number of opportunities granted, the assessee did not make any submission for which the Ld. CIT(A) / NFAC dismissed the appeal filed by the assessee. The Ld. AR has submitted that such non-compliance was not intentional but resulted on account of the reasons cited above. It is the submission of the Ld. Counsel for the assessee that the assessee has a strong case on merits and given an opportunity, the assessee is in a position to substantiate its case by filing the requisite details before the Ld. CIT(A) / NFAC. The appellate order reveals that the Ld. CIT(A)/NFAC has applied the decision of the Apex Court in the case of *CIT Vs. B.N. Bhattacharjee and Another*, 10 CTR 354 (SC) dismissed the appeal of the assessee for non-prosecution without himself going into the merits of the case. 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. 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 fit and proper to set aside the impugned order of the Ld. CIT(A)/NFAC and restore the issues raised by the assessee back to his file with a direction to decide the same on merits as per fact and law, after giving one final opportunity of being heard to the assessee. The assessee is also hereby directed to provide the latest and active email id to the Department for receiving notices of hearing and remain vigilant in accessing the email(s). Needless to say, the assessee shall appear and make submissions before the Ld. CIT(A)/ NFAC on the appointed date without seeking any adjournment under any pretext, unless required for the sufficient cause, 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 31st October, 2025.

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

Sd/-
(Astha Chandra)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 31st October, 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