



IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCHES "B", PUNE

BEFORE DR.MANISH BORAD, ACCOUNTANT MEMBER
AND SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA Nos.1124 to 1127/PUN/2025
Assessment Years : 2014-15, 2015-16, 2016-17 and 2017-18

Sunil Shrirang Pawar, 196, Karanje Peth, Satara - 415 001, Satara, Maharashtra PAN : AFSP9102K	Vs.	Income Tax Officer, Ward-2, Satara
Appellant		Respondent

Appellant by	:	Shri Suhas S. Kulkarni
Respondent by	:	Shri Pramod Shahakar
Date of hearing	:	03.11.2025
Date of pronouncement	:	10.11.2025

आदेश / ORDER

PER BENCH :

The captioned appeals at the instance of assessee pertaining to A.Yrs. 2014-15 to A.Y. 2017-18 are directed against the separate orders dated 13.02.2025 framed by National Faceless Appeal Centre emanating out of respective Assessment Orders dated 17.05.2023, 22.05.2023, 19.05.2023 passed u/s.147 r.w.s.144B of the Income Tax Act, 1961.

2. Assessee has raised following grounds of appeal in all four assessment years namely 2014-15, 2015-16, 2016-17 and 2017-18. Year-wise grounds are as follows :

A.Y. 2014-15 :

"1) In the facts and circumstances of the case and in law, the learned Commissioner of Income tax (Appeals), NFAC has grossly erred in dismissing the appeal on 13.02.2025 as appellant assessee miserably failed to file any compliance by way of adjournment letter



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or written submission during the assessment proceedings and appellate proceedings, when in fact in response to notice u/s 250 dated the appellant assessee had filed a submission vide letter dated 08.01.2025. As such, order passed by the Ld. Commissioner of Income tax (Appeals), NAFC on 13.02.2025 dismissing the appeal without allowing further opportunity of being heard to the appellant is erroneous and bad in law. As such, the order passed by the Learned Commissioner of Income tax (Appeals), NFAC on 13.02.2025 may be annulled in the interest of justice.

2) *In the facts and circumstances of the case and in law, the learned Commissioner of Income tax (Appeals), NFAC has not justified in upholding the Assessing Officers finding on additions made of Rs 88,74,435/- on account of unexplained money u/s 69A of the Income tax Act 1961 without considering factual and legal position of law. As the issues are not decided on merits of the case, the orders passed by both the Authorities may be set aside and matter be restored back to the file of Assessing Officer for fresh adjudication with proper & adequate opportunity of being heard to the assessee in accordance with principle of natural justice.*

3) *The Appellant craves the permission to add, amend, modify, alter, revise, substitute, delete any or all grounds of appeal, if deemed necessary at the time of hearing of the appeal.”*

A.Y. 2015-16 :

1) *In the facts and circumstances of the case and in law, the learned Commissioner of Income tax (Appeals), NFAC has grossly erred in dismissing the appeal on 13.02.2025 as appellant assessee miserably failed to file any compliance by way of adjournment letter or written submission during the assessment proceedings and appellate proceedings, when in fact in response to notice u/s 250 dated the appellant assessee had filed a submission vide letter dated 11.01.2025. As such, order passed by the Ld. Commissioner of Income tax (Appeals), NAFC on 13.02.2025 dismissing the appeal without allowing further opportunity of being heard to the appellant is erroneous and bad in law. As such, the order passed by the Learned Commissioner of Income tax (Appeals), NFAC on 13.02.2025 may be annulled in the interest of justice.*

2) *In the facts and circumstances of the case and in law, the learned Commissioner of Income tax (Appeals), NFAC has not justified in upholding the Assessing Officers finding on additions made of Rs 1,81,60,412/- on account of unexplained money u/s 69A of the Income tax Act 1961 without considering factual and legal position of law. As the issues are not decided on merits of the case, the orders passed by both the Authorities may be set aside and matter be restored back to the file of Assessing Officer for fresh adjudication with proper & adequate opportunity of being heard to the assessee in accordance with principle of natural justice.*



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3) *The Appellant craves the permission to add, amend, modify, alter, revise, substitute, delete any or all grounds of appeal, if deemed necessary at the time of hearing of the appeal.*

A.Y. 2016-17 :

1) *In the facts and circumstances of the case and in law, the learned Commissioner of Income tax (Appeals), NFAC has grossly erred in dismissing the appeal 13.02.2025 as appellant assessee miserably failed to file any compliance by way of adjournment letter or written submission during the assessment proceedings and appellate proceedings, when in fact in response to notice u/s 250 dated the appellant assessee had filed a submission vide letter dated 11.01.2025. As such, order passed by the Ld. Commissioner of Income tax (Appeals), NFAC on 13.02.2025 dismissing the appeal without allowing further opportunity of being heard to the appellant is erroneous and bad in law. As such, the order passed by the Learned Commissioner of Income tax (Appeals), NFAC on 13.02.2025 may be annulled in the interest of justice.*

2) *In the facts and circumstances of the case and in law, the learned Commissioner of Income tax (Appeals), NFAC has not justified in upholding the Assessing Officers finding on additions made of Rs 1,45,32,690/- on account of unexplained money u/s 69A of the Income tax Act 1961 without considering factual and legal position of law. As the issues are not decided on merits of the case, the orders passed by both the Authorities may be set aside and matter be restored back to the file of Assessing Officer for fresh adjudication with proper & adequate opportunity of being heard to the assessee in accordance with principle of natural justice.*

3) *The Appellant craves the permission to add, amend, modify, alter, revise, substitute, delete any or all grounds of appeal, if deemed necessary at the time of hearing of the appeal.*

A.Y. 2017-18 :

1) *In the facts and circumstances of the case and in law, the learned Commissioner of Income tax (Appeals), NFAC has grossly erred in dismissing the appeal on 13.02.2025 as appellant assessee miserably failed to file any compliance by way of adjournment letter or written submission during the assessment proceedings and appellate proceedings, when in fact in response to notice u/s 250 dated the appellant assessee had filed a submission vide letter dated 11.01.2025. As such, order passed by the Ld. Commissioner of Income tax (Appeals), NFAC on 13.02.2025 dismissing the appeal without allowing further opportunity of being heard to the appellant is erroneous and bad in law. As such, the order passed by the Learned Commissioner of Income tax (Appeals), NFAC on 13.02.2025 may be annulled in the interest of justice.*

2) *In the facts and circumstances of the case and in law, the learned Commissioner of Income tax (Appeals), NFAC has not justified in upholding the Assessing Officers finding on additions*



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made of Rs.73,65,730/- on account of unexplained money u/s 69A of the Income tax Act 1961 without considering factual and legal position of law. As the issues are not decided on merits of the case, the orders passed by both the Authorities may be set aside and matter be restored back to the file of Assessing Officer for fresh adjudication with proper & adequate opportunity of being heard to the assessee in accordance with principle of natural justice.

3) The Appellant craves the permission to add, amend, modify, alter, revise, substitute, delete any or all grounds of appeal, if deemed necessary at the time of hearing of the appeal.”

3. Apart from aforesaid grounds of appeal in Form No.36 assessee has also raised following common additional grounds of appeal in the four assessment years under consideration :

“1. On the facts and in the circumstances of the case, and in law, the Ld. Assessing Officer erred in initiating and completing the reassessment proceedings under section 147/148 of the Income-tax Act, 1961 by issuing notice under section 148 after the expiry of the 'surviving period', thereby rendering the entire reassessment proceedings as barred by limitation and void ab initio. The addition so made be deleted. Just and proper relief be granted to the Appellant in this respect.

2. On the facts and in the circumstances of the case and in law, the notice issued under section 148 of the Income-tax Act, 1961, by the Jurisdictional Assessing Officer (JAO) instead of a Faceless Assessing Officer (FAO) is contrary to the scheme notified u/s 151A. The notice issued is bad in law and void ab initio and liable to be set aside.

3. On the facts and in the circumstances of the case, and in law, the Ld. Assessing Officer erred in issuing the notice under section 148 of the Income-tax Act, 1961 despite the information forming the very foundation of the proceedings having emanated from documents found during search and seizure action in the case of Shri Renuka Mata Multi State Urban Cooperative, thereby attracting the specific provisions of section 153C of the Act to the exclusion of section 147/148. The notice issued is bad in law and void ab initio and liable to be set aside.

4. Without prejudice to all the grounds raised in an appeal assessee would like to submit that on the facts and in the circumstances of the case and in law, the learned Assessing Officer be directed to compute the income of the assessee by applying a reasonable percentage of profit by granting due credit for the withdrawals made from the aforesaid bank accounts.”



4. When ld. Counsel for the assessee was asked whether the legal issues raised in the additional grounds of appeal before this Tribunal have been raised before ld.CIT(A), ld. Counsel for the assessee fairly admitted that these legal issues have been raised before this Tribunal for the first time.

5. On the other hand, ld. DR Supported the order of ld.CIT(A).

6. We have heard the rival contentions and perused the record placed before us. We observe that the assessee is an individual and has been assessed to tax u/s.147 r.w.s.144B of the Act for the A.Yrs. 2014-15 to A.Y. 2017-18. Ld. Assessing Officer has made various additions which have been challenged by the assessee before ld.CIT(A) on merits but had failed to succeed. Before us, ld. Counsel for the assessee has raised legal issues by way of additional grounds stating that these additional grounds goes to the root of the jurisdiction assumed by ld. AO for carrying out the reassessment proceedings and no fresh facts need to be referred and by virtue of decision of Hon'ble Apex Court in the case of *National Thermal Power Co. Ltd. vs. Commissioner of Income Tax reported in (1998) 229 ITR 383 (SC)* these legal issues deserved to admitted.

7. The issue of Tribunal's power to adjudicate the ground raised before it in second appeal which did not pass through first appeal came for consideration before the *Hon'ble Delhi High Court in the case of 'Divine Infracon Pvt. Ltd. Vs PCIT' [2025, 171 taxmann.com 92 (Del)]*, wherein their Hon'ble Lordship vide para 13 have categorically held that, the Tribunal has no jurisdiction to proceed to decide the ground



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which did not arise from the impugned order passed by first appellate authority, irrespective of such ground was raised in first appeal or not.

8. Under these given facts and circumstances, since the legal issues has been raised for the first time before this Tribunal which though admitted in light of *National Thermal Power Co. Ltd. vs. Commissioner of Income Tax (supra)* but the same deserves to be adjudicated by Id.CIT(A). We therefore remit back the legal issues and the issues raised on merits by the assessee in all these four assessment years under consideration to the file of Id.CIT(A) for *denovo* adjudication. Needless to mention that in the set aside proceedings Id.CIT(A) shall afford reasonable opportunity of hearing to the assessee. Assessee is also directed to remain vigilant and not to take adjournment unless otherwise required for reasonable cause. Impugned orders are set aside and effective grounds raised by the assessee in the assessment years are allowed for statistical purposes.

9. In the result, all the four appeals filed by the assessee are allowed for statistical purposes.

Order pronounced on this 10th day of November, 2025.

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

Sd/-
(MANISH BORAD)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 10th November, 2025.
Satish



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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, "B" बेंच,
पुणे / DR, ITAT, "B" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.