

**IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "A", PUNE**

**BEFORE SHRI R. K. PANDA, VICE PRESIDENT
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER**

**ITA No.1917/PUN/2024
Assessment year : 2016-17**

Dipak Dadaji Khairnar At Post Kotbel, Baglan, Nashik – 423204	Vs.	ITO, Ward-1, Malegaon
PAN: ANIPK9825E		
(Appellant)		(Respondent)

Assessee by : Shri Sanket Joshi (through virtual)
Department by : Smt N C Shilpa, Addl.CIT
Date of hearing : 17-11-2025
Date of pronouncement : 18-11-2025

ORDER

PER R.K. PANDA, VP:

This appeal filed by the assessee is directed against the order dated 12.08.2024 of the Ld. CIT(A) / NFAC, Delhi relating to assessment year 2016-17.

2. Although a number of grounds have been raised by the assessee, however, these all relate to the *ex-parte* order of the Ld. CIT(A) / NFAC confirming the addition of Rs.91 lakhs made by the Assessing Officer in the order passed u/s 147 r.w.s. 144 r.w.s. 144B of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') on 18.03.2024.

3. Facts of the case, in brief, are that the assessee is an individual and has not filed his return of income. On the basis of information that the assessee has made

certain cash deposits with Central Bank of India and has purchased an immovable property worth Rs.80,50,000/-, the Assessing Officer issued notice u/s 148A(b) of the Act on 28.02.2023. The assessee was also requested to show cause as to why a notice u/s 148 of the Act should not be issued. Since the assessee failed to furnish any explanation / submission, the Assessing Officer passed an order u/s 148A(d) of the Act on 21.03.2023 and accordingly issued notice u/s 148 of the Act on the same day. Despite such notice there was no response from the side of the assessee for which the Assessing Officer completed the assessment u/s 144 r.w.s. 144B of the Act. The Assessing Officer made addition of Rs.80,50,000/- u/s 69 of the Act as unexplained investment in the property and Rs.10,50,000/- u/s 69A of the Act being unexplained cash deposit in the bank account. The Assessing Officer accordingly completed the assessment on the total income of Rs.91,00,000/-.

4. Since there was no compliance before the Ld. CIT(A) / NFAC, the Ld. CIT(A) / NFAC dismissed the appeal filed by the assessee.

5. Aggrieved with such order of the Ld. CIT(A) / NFAC, the assessee is in appeal before the Tribunal.

6. The Ld. Counsel for the assessee at the outset submitted that although the Ld. CIT(A) / NFAC has issued 3 notices and dismissed the appeal for non-compliance, however, he has not decided the appeal on merit. He submitted that

the assessee is a small individual and in the interest of justice, he should be given an opportunity to substantiate his case by filing the requisite details.

7. The Ld. DR on the other hand opposed the arguments advanced by the Ld. Counsel for the assessee and submitted that the assessee has not complied before the Assessing Officer as well as before the Ld. CIT(A) / NFAC and therefore, the order of the Ld. CIT(A) / NFAC should be upheld.

8. We have heard the rival arguments made by both the sides, perused the orders of the Assessing Officer and the Ld. CIT(A) / NFAC and the paper book filed on behalf of the assessee. It is an admitted fact that due to non-compliance of the assessee to the statutory notices issued by the Assessing Officer u/s 148 as well as u/s 142(1) of the Act the Assessing Officer was constrained to pass the order u/s 147 r.w.s. 144 r.w.s. 144B of the Act and made addition of Rs.91,00,000/-. We find despite 3 opportunities granted by the Ld. CIT(A) / NFAC, there was no compliance from the side of the assessee for which he dismissed the appeal for non-prosecution. However, he has not decided the appeal on merit as per provisions of section 250(6) of the Act which reads as under:

“250.....

.....

(6) The order of the Joint Commissioner (Appeals) or the Commissioner (Appeals) disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reason for the decision.”

9. Since it is the submission of the Ld. Counsel for the assessee that given an opportunity the assessee is in a position to substantiate his case, therefore, considering the totality of the facts of the case and in the interest of justice, we deem it proper to restore the issue to the file of Ld. CIT(A) / NFAC with a direction to decide the issue afresh and in accordance with law after providing due opportunity of being heard to the assessee. The assessee is also hereby directed to submit the requisite details before the Ld. CIT(A) / NFAC on the appointed date without seeking any adjournment under any pretext, failing which the Ld. CIT(A) / NFAC is 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 filed by the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 18th November, 2025.

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER
पुणे Pune; दिनांक Dated : 18th November, 2025
GCVSR

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

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order is forwarded to:

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent
3. The concerned Pr.CIT, Pune
4. DR, ITAT, 'A' Bench, Pune
5. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

// True Copy //

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

S.No.	Details	Date	Initials	Designation
1	Draft dictated on	17.11.2025		Sr. PS/PS
2	Draft placed before author	18.11.2025		Sr. PS/PS
3	Draft proposed & placed before the Second Member			JM/AM
4	Draft discussed/approved by Second Member			AM/AM
5	Approved Draft comes to the Sr. PS/PS			Sr. PS/PS
6	Kept for pronouncement on			Sr. PS/PS
7	Date of uploading of Order			Sr. PS/PS
8	File sent to Bench Clerk			Sr. PS/PS
9	Date on which the file goes to the Head Clerk			
10	Date on which file goes to the A.R.			
11	Date of Dispatch of order			