

आयकर अपीलीय अधिकरण न्यायपीठ "एक-सदस्य" मामला रायपुर में

**IN THE INCOME TAX APPELLATE TRIBUNAL  
RAIPUR BENCH "SMC", RAIPUR**

**श्री पार्थ सारथी चौधरी, न्यायिक सदस्य के समक्ष  
BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER**

**आयकर अपील सं./ITA No.727/RPR/2025**

**निर्धारण वर्ष / Assessment Year : 2015-16**

Harbhajan Singh Lalwani  
Raipur Naka, Sindhi Colony,  
Durg-491 001 (C.G.)  
PAN: ACKPL6958N

.....अपीलार्थी / Appellant

**बनाम / V/s.**

The Income Tax Officer,  
Ward-1(1), Bhilai (C.G.)

.....प्रत्यर्थी / Respondent

Assessee by : Shri Yash Jain, CA  
Revenue by : Dr. Priyanka Patel, Sr. DR

सुनवाई की तारीख / Date of Hearing : 05.12.2025

घोषणा की तारीख / Date of Pronouncement : 05.12.2025

**आदेश / ORDER****PER PARTHA SARATHI CHAUDHURY, JM**

The present appeal preferred by the assessee emanates from the order of the Ld.CIT(Appeals)/NFAC, Delhi dated 01.04.2024 for the assessment year 2015-16 as per the following grounds of appeal:

“1. In the facts and circumstances of the case and in law, the Ld. Commissioner of Income-tax (Appeals), NFAC has erred in dismissing the rectification application filed under section 154 of the Income-tax Act, 1961, seeking restoration of the appeal erroneously dismissed on the ground of non-filing of submissions, despite the fact that the written submissions had already been filed physically before the Commissioner of Income-tax (Appeals), Raipur-2.

2. In the facts and circumstances of the case and in law, the Ld. Commissioner of Income-tax (Appeals), NFAC ought to have rectified the erroneous dismissal order and adjudicated the appeal against the assessment order on merits, instead of reiterating the incorrect finding that no written submission had been filed by the appellant.

3. The impugned order is bad in law and on facts.

4. The appellant reserves the right to add, alter, omit all or any of the grounds of appeal with the permission of the Hon'ble appellate authority.”

2. Brief facts in this case are that the assessee is engaged in the business of retail trade of mobile handsets. There was a family dispute between the assessee and his brother Shri Meherban Singh who was looking after the tax matters. Brother filed the return of income u/s. 44AD of the Income Tax Act, 1961 ( for short the 'Act') declaring income of Rs.2,68,900/- on a turnover of Rs.12,50,600/- without the knowledge of

the assessee. During assessment proceedings, the A.O estimated net profit of income at 3% of the total sales and service receipts of Rs.6,17,23,546/- and assessed total income at Rs.18,31,390/- u/s. 143(3) of the Act.

3. Being aggrieved, the assessee preferred an appeal before the Ld. CIT(Appeals)/NFAC and the said authority held and observed as follows:

**“2. Decision:**

The application of the assessee relates to certain written submissions alongwith annexures filed on 19.12.2019 before the CIT(Appeal) in physical form and not having been considered in proceedings u/s.250. These submissions are not available on record. Further, consideration of these submissions now after completion of proceedings u/s.250 tantamounts to review of the appeal proceedings and a debatable issue is involved. Therefore, this is not covered in section 154 as mistake apparent from record. Therefore, the application of the assessee is dismissed as non-maintainable.”

4. It is the contention of the Ld. Counsel for the assessee that when the appeal was filed before the Ld. CIT(Appeals)-2, Raipur, the assessee had filed detailed written submission a/w. supporting documents during the physical hearing held on 19.02.2019. The appeal was later migrated to the National Faceless Appeal Centre (NFAC) and thereafter, the Ld. CIT(Appeals)/NFAC dismissed the appeal in limine holding that no written submission was filed, without considering or acknowledging the written submission already filed before the Ld. CIT(Appeals)/NFAC. The assessee therefore, prays that the matter may be remanded to the file of the Ld.

CIT(Appeals)/NFAC for denovo adjudication on merits as per written submission and evidences already placed on record.

5. In this regard, the Ld. Sr. DR did not raise any objection.

6. Having heard the submissions of the parties herein and considering the documents on record, it is discernable that the Ld. CIT(Appeals)/NFAC had given findings where it states that though the assessee had filed written submissions before the Ld. CIT(Appeals) during physical hearing, however, when considering the matter in the NFAC, it held that there were no such written submissions on record.

7. Be that as it may, the assessee has only prayed for one final opportunity so that the Ld. CIT(Appeals)/NFAC may refer the submissions and evidences already filed on record. That even the statutory parameters clearly defines the manner of adjudication by the Ld. CIT(Appeals)/NFAC, to consider the merits of each of the grounds assailed before the said authority. That if final opportunity is provided to the assessee the position of the revenue shall also not be jeopardized. Rather, it is essential from the point of view of principles of natural justice that before arriving at a decision of levying or not certain additions on the assessee, correctness of such additions needs to be ascertained first and therefore, as per mandate

of Section 250(4) & (6) of the Act, the Ld. CIT(Appeals)/NFAC should conduct enquiry and come out with a speaking order.

8. With these observations, I set aside the order of the Ld. CIT(Appeals)/NFAC and remand the matter back to its file for denovo adjudication as per law and to verify whether written submissions a/w. documents have been filed by the assessee and to consider the same. That if, the Ld. CIT(Appeals)/NFAC does not find such submissions/documents which is possible since there was conversion from physical to faceless regime, in such scenario, the Ld. CIT(Appeals)/NFAC shall raise definite queries from the assessee for filing submissions/evidences and it would be mandatory also for the assessee to comply with those queries/notices from office of the Ld. CIT(Appeals)/NFAC.

9. As per the above terms, grounds of appeal raised by the assessee stands allowed for statistical purposes.

10. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in open court on 05<sup>th</sup> day of December, 2025.

Sd/-  
**(PARTHA SARATHI CHAUDHURY)**  
न्यायिक सदस्य/JUDICIAL MEMBER

रायपुर / Raipur; दिनांक / Dated : 05<sup>th</sup> December, 2025.

SB, Sr. PS

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT-1, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "एक-सदस्य" बेंच,  
रायपुर / DR, ITAT, "SMC" Bench, Raipur.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary  
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur