

आयकर अपीलीय अधिकरण “एक सदस्य मामला” न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH, PUNE

BEFORE SHRI R.K. PANDA, VICE-PRESIDENT
AND
MS. ASTHA CHANDRA, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.2190/PUN/2025
निर्धारण वर्ष / Assessment Year : 2012-13

Savita Kamlakar Birajdar, C/o Manisha S Rane, Flat No. F-1201, Empire Square, Chinchwad, Pune- 411019 PAN : ASVPB1047R	Vs.	ITO, Ward – 2, Latur
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

Assessee by :	Shri Sharad A Vaze
Department by :	Shri Harish Bist (Through Virtual)
Date of hearing :	04-12-2025
Date of Pronouncement :	28-01-2026

आदेश / ORDER

PER ASTHA CHANDRA, JM :

The appeal filed by the assessee is directed against the order dated 25.02.2025 of the Ld. Commissioner of Income Tax (Appeals), NFAC, Delhi [“CIT(A)/NFAC”] pertaining to Assessment Year (“AY”) 2012-13.

2. There is a delay of 146 days in filing of this appeal. The Ld. AR has filed an application for condonation of delay along with a sworn affidavit stating the reason therein for such delay. After hearing both the sides and the considering the contents of the affidavit and other supporting documents on record, we find that there is a reasonable cause for filing the appeal with delay. Therefore, in the light of the judgment(s) of Hon’ble Apex Court in the case of Collector, Land Acquisition, Anantnag & Anr. Vs. Mst. Katiji & Ors. [(1987) 2 SCC 107] and Inder Singh Vs. State of Madhya Pradesh (2025 INSC 382), we hereby condone the delay of 146 days in

filing of the instant appeal before this Tribunal and admit the appeal for adjudication.

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

- “1. The Ld. AO erred in law and on facts in completing assessment u/s 144 without affording adequate opportunity of being heard, thereby violating the principles of natural justice.
2. The Ld. AO erred in treating the entire investment of 31,00,000/- as unexplained investment u/s 69, ignoring the fact that appellant's share was only 50% of the purchase value.
3. The Ld. AO and the Ld. CIT(A) erred in not appreciating the explanation and evidences filed by the appellant regarding the sources of investment.
4. The Ld. CIT(A) erred in confirming the order of the AD without adjudicating on the submissions filed, thereby rendering the order Invalid in law.
5. The appellant craves leave to add, amend, alter, or withdraw any ground at the time of hearing.”

4. It is a case of an *ex-parte* assessment under section 144 read with section 147 of the Income Tax Act, 1961 (the “**Act**”). Briefly stated, the facts of the case are that the assessee is an individual. She did not file her return of income for A.Y. 2012-13. The case of the assessee was reopened by the Ld. Assessing Officer (“**AO**”) under section 147 of the Act based on the information provided by the “Sub-Registrar Office, Panvel-3” that the assessee has made investment in purchasing immovable property worth Rs. 31,00,000/-. Accordingly, statutory notice(s) under section 148 & 142(1) of the Act as well as show cause notice(s) were issued and duly served upon the assessee from time to time requesting the assessee to submit explanation regarding source of investment. However, the assessee failed to comply with any of these notices. Due to lack of any reply/ documentary evidence regarding source of investment, the Ld. AO made an addition of Rs. 31,00,000/- as unexplained investment under section 69 of the Act vide his order dated 27.12.2019 passed u/s 144 r.w.s. 147 of the Act.

5. The assessee carried the matter in appeal before the Ld. CIT(A)/NFAC challenging the above addition made by the Ld. AO. Before the Ld. CIT(A)/NFAC, there was non-compliance of notice(s) of hearing. The Ld.

CIT(A)/NFAC dismissed the appeal of the assessee for non-prosecution and endorsed the findings of the Ld. AO.

6. Dissatisfied, the assessee is in appeal before the Tribunal and all the grounds of appeal relate thereto.

7. The Ld. AR at the outset admitted that there was non-compliance by the assessee to the various notices issued by the Ld. AO and CIT(A)/ NFAC, however it was not intentional but resulted on account of certain unavoidable circumstances beyond the control of the assessee. During the appellate proceedings before the Ld. CIT(A)/ NFAC, the non-appearance / non-compliance was due to the ill health of the assessee and her son. The assessee is suffering from prolonged severe and persistent spinal issue for a considerable period which necessitated complete rest and her son is also taking treatment for seizures (Epilepsy) since June 2017 which necessitates daily care and observation. The Ld. AR submitted that the assessee is a housewife and her only source of income is from small household business of tailoring. She was not aware of the notices issued to her. He further submitted that assessee's share in the impugned property is 50% and the same was purchased out of her personal savings, sale of streedhan and receipts against cancelled property booking. He submitted that given an opportunity the assessee is in a position to explain and substantiate her case before the Ld. CIT(A)/NFAC by furnishing all the requisite supporting documents/evidence in support of her claim. The Ld. AR, therefore, urged that the matter may be sent back to the file of Ld. CIT(A)/NFAC for adjudication afresh on merits, after affording an opportunity of hearing to the assessee.

8. The Ld. DR had no objection to the above proposition of the Ld. AR.

9. We have heard the Ld. Representative of the parties and perused the material available on record. We observe that both the Ld. AO as well as the Ld. CIT(A)/ NFAC have passed their respective orders *ex-parte qua* the assessee as the notices issued by them remained un-complied with. We find that the Ld. CIT(A)/NFAC vide his impugned order dismissed the

appeal of the assessee for non-prosecution of the appeal. On merits, the Ld. CIT(A)/NFAC has confirmed the addition made by the Ld. AO for failure on the part of the assessee to furnish the relevant supporting documentary evidences in support of her claim. Before us, the Ld. AR has submitted that the non-compliance before the Ld. CIT(A)/NFAC was not intentional but resulted on account of reasons stated above and pleaded that given an opportunity the assessee is in a position to explain and substantiate her case by filing all the requisite details/ documentary evidences in support of her claim before the Ld. CIT(A)/NFAC. Perusal of the impugned appellate order reveals that the Ld. CIT(A)/NFAC has applied the decision of the Hon'ble Supreme Court in CIT Vs. B.N. Bhattacharjee and Another, 10 CTR 354 (SC) and also several other decisions of High Courts/ Tribunals stated therein and dismissed the appeal of the assessee for non-prosecution. 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. Nonetheless, 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 thereof and the reasons for the decision. We observe that the Ld. CIT(A)/NFAC has passed the impugned order in concurrence of the order of Ld. AO without himself going into the merits of the case. Thus, in our view, his order is in violation of the provisions of section 250(6) of the Act.

10. On the above facts and in the circumstances of the case, we deem it fit, in the interest of justice and fair play to set aside the order of Ld. CIT(A)/NFAC and restore the matter back to his file for *denovo* adjudication and pass speaking order on merits as per fact and law after allowing reasonable opportunity of being heard to the parties. Needless to say, the assessee shall provide the requisite support in 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 in accordance with law. The assessee is also hereby directed to provide his active and latest email id to the Department for receiving notice(s) of hearing and remain vigilant in accessing and responding to the notices. We

direct and order accordingly. The grounds raised by the assessee are thus allowed for statistical purposes.

11. In the result, the appeal of assessee is treated as allowed for statistical purpose.

Order pronounced in the open court on 28th January, 2026.

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

Sd/-
(Astha Chandra)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 28th January, 2026.

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, "एक सदस्य मामला" बेंच, पुणे / DR, ITAT, "SMC" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

सहायक पंजीकार / Assistant Registrar
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune