

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL
DIVISION BENCH, 'DB'. AMRITSAR

BEFORE SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER &
SHRI UDAYAN DASGUPTA, JUDICIAL MEMBER

आयकर अपील सं./ ITA Nos. 175 & 176/ASR/2024

निर्धारण वर्ष / Assessment Years 2014-15 & 2016-17

Bashir Ahmad Rah, Khudwani Wanpoh, Jammu and Kashmir 192331	V s	The ITO, Ward 1, Srinagar
स्थायी लेखा सं./PAN NO: CEHPR7830E		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

VIRTUAL HEARING

Assessee by : None
Revenue by : Sh. Farhat Khan, CIT DR

Date of Hearing : 02.02.2026
Date of Pronouncement : 03.02.2026

ORDER

Per Udayan Dasgupta, J.M.:

These two appeals are filed by the assessee against the orders of the Id. CIT (A) NFAC, Delhi dated 21.02.2024, for both the years, passed u/s 250 of the Income Tax Act, 1961(henceforth the Act) which has emanated from the orders of the AO (assessment unit) dated 17/05/2023 for AY 2014-15 and dated 04/05/2023 for AY 2016-17 , both passed u/s 147 rws 144/144B .

2. There was no appearance on behalf of the assessee or its counsel, on repeated calls, but considering the materials on record and the grounds of appeal we proceed to dispose off both the appeal after hearing the Ld DR.

3. It is seen from record that written submissions for both the years are filed by the assessee, and the facts and issues being identical for both the years, the same are taken together for disposal for the sake of convenience.

4. Brief facts emerging from records are that the assessee an individual is engaged in the business of poultry and has deposited cash in his bank account with Jammu and Kashmir Bank A/c No XXXXX00147, amounting to Rs. 2.72 crores for the Asst year 2014-15 and an amount of Rs. 2.08 crores for the AY 2016-17 and in absence of any return of income being filed by the assessee for either of the years, coupled with total non-compliance to various notices issued by the AO , assessment for both the years were completed on the basis of information gathered from the bankers u/s 133(6) of the Act , and entire credits in the bank account (consisting of cash deposits and other than cash entries), for each of the years, has been assessed as income at Rs. 4.75 crores and Rs. 5.66 crores, respectively, against which the matter was carried in appeal before the Ld first appellate authority.

5. In absence of any compliance to notices issued by the Ld first appellate authority , the appeals were dismissed in limine , without admitting the appeals for adjudication on merits , for non-payment of advance tax (admitted tax) coupled with the fact that no return has been filed for any of the years , triggering the provisions of section 249(4)(b) of the Act , in absence of any application , praying for waiver or exemption of pre deposit.

6. The claim of the assessee as evident from the written submissions on record are that the assessee has undergone heart surgery and was

medically indisposed and could not comply with various notices from the department and it was further stated that the business of poultry yields very nominal margins and the total credits in the bank accounts are out of sale proceeds of poultry products and given an opportunity the assessee will be able to prove that he is not liable to making payment of advance tax u/s 210 of the Act, and the Ld first appellate authority has dismissed the appeal in limine without affording an opportunity to the assessee to explain the reasons for non payment.

7. As such he prays for an opportunity to explain his case before the Ld first appellate authority both on the technical issue of section 249(4)(b) and also on merits.

8 The Ld DR relied on the order of the Ld CIT(A) and submitted that in absence of any computation of income being furnished by the assessee , even at this stage , it is not ascertainable as to what is the assessee's admitted tax and whether the same attracts the provisions of section 210 or not .

9. We have considered the submission of the Ld DR and the written submission on record. We are of the opinion that in the interest of justice the assessee may be allowed an opportunity to explain his case with materials and evidences, that prima facie he does not have the liability of payment of advance tax and on satisfactory explanation of the same the appeal is to be admitted to be adjudicated on merits on the grounds contained in form 35, and the assessee is also directed to furnish all evidences and submission in support of his contention and to fully cooperate in appellate proceedings.

10. We have not expressed any opinion on merits.
11. Both the appeals are allowed for statistical purpose.

Order pronounced on 03. 02.2026.

SD/-
(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

SD/-
(UDAYAN DASGUPTA)
JUDICIAL MEMBER

“rkk”

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT,
CHANDIGARH
5. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar