

**IN THE INCOME TAX APPELLATE TRIBUNAL
"NAGPUR" BENCH, NAGPUR
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER &
SHRI KHETTRA MOHAN ROY, ACCOUNTANT MEMBER
ITA No. 29/NAG/2024 (AY: 2013-14)
(Physical hearing)**

Prashant Jugalkishore Rathi Laxmi Nagar Shrinath Apartment, Gaurakshan Road, Maharashtra – 444004. [PAN: AOCPR1040K]	Vs	ITO, Ward–3, Akola Aayakar Bhawan, Murtizapur Road, Maharashtra – 444107.
Appellant / Assessee		Respondent / Revenue

Assessee by	Mrs. Shikha Loya, CA
Revenue by	Shri Pankaj Kumar, CIT–DR
Date of hearing	17.02.2026
Date of pronouncement	17.02.2026

Order under section 254(1) of Income Tax Act

PER PAWAN SINGH, JUDICIAL MEMBER:

1. This appeal by the assessee is directed against the order of National Faceless Appeal Centre, Delhi (NFAC)/learned Commissioner of Income Tax (Appeals) (in short, the Id. CIT(A)) dated 28/12/2023 for the Assessment Year (AY) 2013-14. Though, the assessee has raised multiple grounds of appeal. However, the substantial ground of appeal tax relates to dismissal of appeal by Id CIT(A) for the want of admitted tax liability under section 249(4)(b) of Income Tax Act (Act).
2. Rival submissions of both the parties have been heard and record perused. At the outset of hearing, Mrs. Shikha Loya Advocate/ learned Authorized Representative (Id. AR) of the assessee submits that the appeal of assessee was dismissed as unadmitted by the Id. CIT(A) by taking view that the assessee has not deposited

payment of tax equal to amount of advance tax as per Section 249 (4)(b) of the Income Tax Act, 1961 (in short, the Act). The Id. AR of the assessee submits that the assessee was not having any taxable income, thus, there was no occasion for assessee either to file return of income or to make payment of advance tax. The assessee is agriculturist and having meagre income. Before, assessing officer the assessee file certain explanation, but the same was not considered by him. The assessment was completed under section 144/147, therefore, the matter may be restored to the file of assessing officer to reconsider the matter afresh. To support her submission, the Id. AR of the assessee relied upon the following decisions:

- ❖ Vishnusharan Chandervanshi Vs ITO, (2024) 161 taxmann.com 803 (Raipur),
- ❖ Balwinder Singh Vs ITO (2024) 163 taxmann.com 599 (Amritsar-Trib).

3. On the other hand, the learned CIT-DR for the revenue submits that in case, the Bench is convinced that matter may be restored to the file of Assessing Officer with the direction to assessee to be more vigilant in making compliance in time.
4. We have considered the submissions of both the parties and perused the material on record carefully We have also deliberated on the decisions relied upon by the Id. AR of the assessee. We find that the assessee has not filed return of income nor paid equal to the advance tax which was payable by assessee. The assessment was completed by Assessing Officer (AO) under Section 144 r.w.s 147 of the Act on 29.09.2021 by making addition of Rs. 4,65,23,793/- under section 41(1) on account of loan written off/ remission of liability by Akola Urban Cooperative Bank. The Id. CIT(A) dismissed the appeal in limine for non-compliance of section 249(4)(b). We find that on similar set of facts, Raipur Bench of Tribunal in

Vishnusharan Chandervanshi Vs ITO, (supra) held that where the assessee had no taxable income, there was no obligation cast upon the assessee to compute/ pay 'advance tax' under the Act. Considering the aforesaid decision of coordinate bench and there are series of similar decision on this issue, thus, the order of Id. CIT(A) is set aside. Even otherwise, the order of Id. CIT(A) is not in consonance with the provision of section 250(6) of the Act. We further find that the assessment was completed under Section 144 of the Act, therefore, considering the fact and circumstances of the case and the interest of justice, the matter is restored back to the file of JAO to pass the order afresh after giving reasonable and fair opportunity of hearing to the assessee. The assessee is also directed to be more vigilant in future and not to cause further delay by seeking adjournment without any valid reason and to furnish all the details and her submissions and evidences on various grounds of appeal raised, as soon as possible, if so desired without any further delay. In the result, the grounds of appeal raised by the assessee are allowed for statistical purposes.

5. In the result, this appeal of assessee is allowed for statistical purpose.

Order announced in open court on 17th February 2026 at the time of hearing.

Sd/–

KHETTRA MOHAN ROY
ACCOUNTANT MEMBER

Sd/–

PAWAN SINGH
JUDICIAL MEMBER

Nagpur: Dated: 17/02/2026
Biswajit

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Nagpur; and
- (5) Guard file.

By order

Assistant Registrar
ITAT, Nagpur