



IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCHES "SMC", PUNE

BEFORE DR.MANISH BORAD, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.1871/PUN/2025  
Assessment Year : 2018-19

Shivani Enterprises, Western India House 587, 588, Sadashiv Peth, Pune 411037 Maharashtra PAN : ACFFS4711D	Vs.	Income Tax Officer, Ward-14(1), Pune
Appellant		Respondent

Assessee by	:	Shri Kishor Phadke
Revenue by	:	Shri Eknath Abhang
Date of hearing	:	04.02.2026
Date of pronouncement	:	18.02.2026

**आदेश / ORDER**

The captioned appeal at the instance of assessee pertaining to the Assessment Year 2018-19 is directed against the order dated 22.04.2024 of National Faceless Appeal Centre, Delhi passed u/s.250 of the Income-tax Act, 1961 (hereinafter also called 'the Act') arising out of the Assessment Order dated 24.11.2020 passed u/s.143(3) r.w.s.143(3A) & 143(3B) of the Act.

2. Registry has pointed out that there is delay of 401 days in filing the appeal before the Tribunal. Assessee has filed an affidavit explaining the delay and relevant contents are reproduced below:

*"11. Appellant was not subjected to any scrutiny / income tax proceedings in the past years and the current year was the first year of any income tax proceedings in his case. Appellant was unaware*



ITA No.1871/PUN/2025  
Shivani Enterprises

*of the procedures and compliances for the same. The appellant was in a state of confusion regarding the appropriate procedures and responses to be submitted before Hon'ble ITAT, after the order passed u/s 250 of ITA, 1961*

12. *I, Ashraf Mushtaque Parwani, the key managing partner responsible for tax matters, have my email ID (ashrafparwani@gmail.com) registered on the Income Tax Portal for official communication. During 2024, I suffered from prolonged health issues requiring regular medical attention and rest. As a result, I could not monitor emails or coordinate effectively, and notices issued u/s 250 were inadvertently missed and not shared with our tax consultant.*

13. *It was only in March 2025, during the financial year-end review, that our regular tax consultant-while checking the portal for updates-discovered that the CIT(A) had passed an ex-parte order on 22/04/2024. This was the first time we became aware that the appeal had been disposed of without representation. Due to unfamiliarity with appellate procedures and the unforeseen health issues I faced, the status was not communicated to our consultant earlier.*

14. *In order to comply with order u/s 250 of ITA, 1961, a major time was passed in searching for a new tax consultant. However, the appellant consulted new tax counsel who advised to immediately file an appeal against the said order. Further, the tax consultant was informed to provide certain details/information for filing an appeal against the said order. Accordingly, the appellant was in the process of compiling and collecting details and information as requested by the tax consultant. Considering the same, a delay of almost 411 days has crept into the filing of the present appeal.*

15. *As such, there was a delay of 411 days in preferring this present appeal before the Hon'ble ITAT, Pune Bench..*

16. *As the delay in filing the appeal is purely un-intentional and does not involve any legal issue or contention, request your goodself to kindly condone the delay and decide the appeal on merits.*

3. After hearing both the sides and considering the affidavit filed by the assessee stating the reasons which led to delay and also placing reliance on the judgment of Hon'ble Supreme Court in the case of Collector, Land Acquisition vs. Mst. Katiji & Ors. (1987) 2 SCC 107) I find that due to 'reasonable cause' assessee failed to file the appeal within the time limit specified



under the Act. I therefore condone the delay of 401 days in filing the appeal and admit the appeal for adjudication.

4. The grievance of the assessee in the instant appeal is against the disallowance u/s.40(a)(ia) of the Act at Rs.12,66,080/- on non-deduction of tax at source on alleged rent expenses.

5. At the outset, ld. Counsel for the assessee submitted that due to some clerical mistake in Tax Audit report, figure of disallowance of Rs.12,66,080/- which has been already offered to tax in the sister concern of the assessee namely M/s. Prime Accessories and that the same figure has again been repeated in the case of assessee in the tax audit report eventhough no such rent has been paid, impugned disallowance deserves to be deleted. Reference also made to the computation of income and return of income of M/s. Prime Accessories for A.Y. 2018-19 and also the paper book running into 119 pages.

6. On the other hand, ld. Departmental Representative supported the order of ld.CIT(A).

7. I have heard the rival contentions and perused the record placed before me. I observe that the assessee is partnership firm engaged in the business of Fabric sales. Income of Rs.17,32,968/- declared in the return of income for A.Y. 2018-19. After the case being taken up for Limited Scrutiny, ld. Assessing Officer based on the observation of the Tax Auditor in the Tax Audit report noted that a sum of Rs.12,66,080/- deserves to be added u/s.40(a)(ia) of the Act for non deduction



of tax at source on the rent expenses. Assessee carried the matter before Id.CIT(A) but failed to succeed on this issue.

8. Ld. Counsel for the assessee has referred to the Tax Audit Report of the sister concern M/s. Prime Accessories placed at pages 106 to 119 of the paper book and more specifically in Column No.21 under the head details of payment on which tax has been deducted but has not been paid during the previous year, there is a reference of non-deduction of tax u/s.194I of the Act on the amount paid to three persons totalling to Rs.12,34,334/-. I also note that M/s. Prime Accessories in its income-tax return for A.Y. 2018-19 has *suo motu* disallowed Rs.12,66,080/- u/s.40(a)(ia) of the Act which includes the figure of Rs.12,34,334/- referred in the Tax Audit report.

9. Further, on perusal of the Tax Audit Report issued in the case of assessee placed at pages 56 to 69 of the paper book, I find that very same figure of non-deduction of tax at source on rent payment, as were mentioned in the Tax Audit report of M/s. Prime Accessories have been mentioned in Column No.21 of Tax Audit Report of the assessee. Ld. Counsel for the assessee has also referred to the profit and loss account and the details of rent expenses and the same clearly indicates that details mentioned by the Auditor in the Tax Audit Report of the assessee are basically the details mentioned in the Tax Audit Report of M/s. Prime Accessories and inadvertently the figures have been repeated in the Tax Audit Report of the assessee even though no such payment of rent mentioned in the Tax Audit Report has been made by the assessee. In absence of any such payment of rent having been made by the assessee,



ITA No.1871/PUN/2025  
Shivani Enterprises

section 40(a)(ia) of the Act for non-deduction of tax at source cannot be invoked. On due verification of these details, I am inclined to hold that impugned disallowance made by the Assessing Officer u/s.40(a)(ia) of the Act deserves to be deleted. Finding of Id.CIT(A) is reversed. Grounds of appeal raised by the assessee are allowed.

10. In the result, the appeal of the assessee is allowed.

Order pronounced on this 18<sup>th</sup> day of February, 2026.

Sd/-  
**(MANISH BORAD)**  
**ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated : 18<sup>th</sup> February, 2026.

Satish

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

आदेशानुसार / BY ORDER,

// True Copy //

Assistant Registrar  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune