



IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCHES “A”, PUNE

BEFORE DR.MANISH BORAD, ACCOUNTANT MEMBER  
AND SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA Nos.2733 and 2734/PUN/2024  
Assessment Years : 2013-14 and 2016-17

Gaffar Ebrahim Shaikh, Ward No.11, Cahat Traders, Jatiba Nagar, Nehru Nagar, Nanded, Maharashtra PAN : CJVPS8298E	Vs.	ITO, Ward-1, Pune
Appellant		Respondent

Assessee by	:	Shri Prateek Jha
Revenue by	:	Shri Ramnath P. Murkunde
Date of hearing	:	28.01.2025
Date of pronouncement	:	10.02.2025

**आदेश / ORDER**

**PER DR. MANISH BORAD, ACCOUNTANT MEMBER :**

The captioned two appeals pertaining to the Assessment Years 2013-14 and 2016-17 are directed against the separate orders dated 16.10.2024 and 06.11.2024 respectively passed by National Faceless Appeal Centre, Delhi u/s.250 of the Income-tax Act, 1961 (in short ‘the Act’) which inturn are arising out of the respective Assessment orders.

2. Since the issues raised by the assessee are common in these two years under appeal, we proceed to dispose of these appeals by way of this consolidated order for the sake of convenience.
3. At the outset, Ld. Counsel for the assessee submitted that the there is delay of 5 days in presenting the appeal before the Tribunal. Referring to the condonation petition, he submitted



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that the assessee could not contact the Tax consultant due to ill – health of family members which resulted in delay of 5 days. The delay occurred in the instant case is not intentional, therefore, it is prayed for condoning the delay and admit the appeal for adjudication. Having perused the averments made in the condonation petition filed before the Id.CIT(A) we find that there was ‘reasonable cause’ which prevented the assessee in filing the appeal within the stipulated time. Therefore, the delay occurred in preferring the appeal before the Tribunal is condoned by virtue of decision of Hon’ble Supreme Court in the case of *Collector Land Acquisition Vs. MST Katiji (1987) 167 ITR 471 SC*.

4. Facts of the case in brief are that the assessee in the present case is an individual engaged in the business of purchase and sale of scrap under the name and style M/s. Shah Traders. Search & Seizure action u/s.132 of the Act was carried out in the case of M/s. Shri Renuka Mata State Urban Coop. Credit Society on 26.05.2012 in whose account the assessee was found to have deposited huge cash. The case(s) were reopened by way of issuance of notice u/s.148 of the Act. In the absence of any compliance by the assessee, the assessments for both the years under appeal were completed u/s.147 r.w.s144 of the Act making addition of cash deposits of Rs.2.14 crore for A.Y. 2013-14 and Rs. 1.70 crore respectively as unexplained income u/s.69A of the Act. Aggrieved assessee preferred appeals before the Id.CIT(A) and the Id.CIT(A) dismissed the appeals *in limine* for non-prosecution for both the years under appeal.

5. On merits of the case, Ld. Counsel for the assessee submitted that Ld. Counsel for the assessee submitted that the assessee’s case could not be represented before the authorities



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below. The reasons for non-compliance are beyond the control of assessee. Ld.CIT(A) dismissed the appeal *in limine* for non-prosecution, without discussing anything on merits of the issues as contemplated u/s.250(6) of the Act. Therefore, in the interest of justice, it is prayed for granting an opportunity of hearing to the assessee. The ld. Authorized Representative also emphasized that the assessee will be more vigilant in complying with the notices issued by the department and representing the matter effectively.

6. On the other hand, ld. Departmental Representative heavily relied on the orders of the authorities below.

7. We have heard both the parties and perused the record placed before us. It is an admitted fact both the assessment order as well as the First Appellate order have been passed *ex parte* qua the assessee for the years in question. The ld.CIT(A) has merely dismissed the appeal in limine, without discussing anything on merits of the issues. The settled position of law mandates that the ld.CIT(A) to dispose of the appeal by adjudicating the issues raised in appeal on merits as contemplated u/s.250(6) of the Act giving reasons thereof. In this regard, reference is being made to a decision of the Hon'ble Bombay High Court in the case of *Pr.CIT(Central) Vs. Premkumar Arjundas Luthra (HUF Bombay)/[2017] 297 CTR 614 (Bombay)* wherein it was held that ld.CIT(A) NFAC is obliged to dispose of the appeal on merits even in an *ex parte* order. Considering the totality of the facts of the case and the submissions made by the ld. Counsel for the assessee, we in the interest of justice deem it proper to give an opportunity to the assessee. In view thereof, without dwelling into merits of the issue, the issues on merits for both the years under appeal are being remitted to the file of ld.CIT(A) for *denovo*



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adjudication. In such proceedings, ld.CIT(A) shall consider all the submissions of the assessee and pass the orders in conformity with the provisions envisaged u/s.250(6) of the Act. Assessee is directed to provide proper email id to the department for receiving the hearing notices from the ITBA portal. Assessee is also directed to remain vigilant and not to take adjournment unless otherwise required for reasonable cause, failing which the ld.CIT(A) shall be free to proceed in accordance with law. Findings of the ld.CIT(A) are set aside and effective grounds of appeal raised by the assessee for both the years under appeal are allowed for statistical purposes.

8. In the result, both the appeals of the assessee are allowed for statistical purposes.

Order pronounced on this 10<sup>th</sup> day of February, 2025.

Sd/-  
**(VINAY BHAMORE)**  
**JUDICIAL MEMBER**

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

पुणे / Pune; दिनांक / Dated : 10<sup>th</sup> February, 2025.  
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, “A” बेंच,  
पुणे / DR, ITAT, “A” Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.