



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

BEFORE DR.MANISH BORAD, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.2429/PUN/2024

Assessment Year : 2013-14

Prakash Dipchand Kapadnis, Plot No.37, Gat No.201, Z.P. Colony, Kulswamini, Shramik Nagar, Satpur, Nashik 422 007 Maharashtra PAN : ASSPK2481R	Vs	The ITO, Ward-1(1), Nashik
Appellant		Respondent

Assessee by	:	None
Revenue by	:	Shri Vinod Pawar
Date of hearing	:	24.12.2024
Date of pronouncement	:	07.01.2025

आदेश / ORDER

PER DR. MANISH BORAD, ACCOUNTANT MEMBER :

This appeal by the assessee pertaining to Assessment Year 2013-14 is directed against the order dated 04.07.2024 passed by National Faceless Appeal Centre, Delhi u/s.250 of the Income-tax Act, 1961 (hereinafter also called 'the Act') which inturn is arising out of the Assessment Order passed u/s.147 r.w.s. 144 dated 07.09.2021.



*ITA No.2429/PUN/2024
Prakash Dipchand Kapadnis*

2. Facts in brief are that the assessee is an individual who did not file any return of income for the year under consideration under the provisions of section 139(1) of the Act. The information was available with the Assessing Officer on the basis of Form No.26AS indicating that the assessee has received Commission/Brokerage of Rs.24,89,121/- on which TDS of Rs.2,48,912/-. Since the assessee did not file the return of income and reply to the notice u/s.148 of the Act, the Assessing Officer had no option except to frame the best judgment assessment u/s.144 of the Act making addition of total receipt of Commission/Brokerage of Rs.24,89,121/-.

3. Aggrieved assessee preferred appeal before the ld.NFAC apart from filing the appeal presenting the statement of facts. No further compliance was made to the notice of hearing issued by ld.NFAC which led to dismissal of appeal.

4. Now the assessee is in appeal before the Tribunal.

5. When the appeal was called for, none appeared on behalf of the assessee despite due service of notice of hearing. I therefore proceed to dispose of the appeal with the able assistance from ld. Departmental Representative *exparte qua* the assessee.



6. The ld. Departmental Representative vehemently argued supporting the orders of the lower authorities.

7. I have heard the ld. Departmental Representative and perused the record placed before me. I notice that as per Form No.26AS Commission/Brokerage of Rs.24,89,121/- is credited in the PAN of the assessee received from Citrus Inns Limited and Royal Twinkle Star Club Private Limited (Rs.10,52,153.33 + Rs.14,36,967.61). In the grounds of appeal, the grievance of the assessee is that ld. AO ought to have computed only the net income rather than making addition of gross receipts. However, the assessee had not placed any details either before the ld.NFAC or even before this Tribunal. A perusal of the impugned order also would reveal that ld.CIT(A)/NFAC has dismissed the assessee's appeal *in limine* without discussing the issue on merits as contemplated u/s.250(6) of the Act, which provides that for adjudicating the appeal, the ld.CIT(A)/NFAC should dispose of the same in writing and shall state the points for determination, the decision thereon and the reason for that decision. The settled position of law mandates the ld.NFAC to dispose of the appeal by adjudicating the issues raised in appeal on merits. 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



ITA No.2429/PUN/2024
Prakash Dipchand Kapadnis

614 (Bombay) wherein it was held that NFAC is obliged to dispose of the appeal on merits.

8. Considering the totality of the facts and circumstances prevailing in the instant case, I am of the opinion that assessee deserves one more opportunity to meet the ends of justice. In view thereof, without dwelling into merits of the issue, the issue on merits is being remitted to the file of Id. NFAC for *denovo* adjudication after affording opportunity of being heard to the assessee. The assessee is also directed to remain vigilant and not to take adjournment unless otherwise required for reasonable cause, failing which the Id. NFAC shall be free to proceed in accordance with law. Finding of the Id.NFAC is set aside and Grounds of appeal raised by the assessee are allowed for statistical purposes.

9. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced on this 07th day of January, 2025.

Sd/-
(MANISH BORAD)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 07th January, 2025.

Satish



ITA No.2429/PUN/2024
Prakash Dipchand Kapadnis

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 //

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