

DSD Progressive Associate v. Assistant Commissioner of Income Tax

Income Tax Appeal No. 1 of 2024

2025:BHC-NAG:14649-DB | Income Tax Appeal No. 1 of 2024 | 2025-12-19

Breach of natural justice before ITAT Nagpur (ITA No. 387/NAG/2019): ITAT recorded appearance of an unauthorized CA who had merely mentioned an e-mailed adjournment request of the authorized CA; upon Department's affidavit of apology after Rs. 50,000 personal-cost show-cause notice, ITAT order dated 13.10.2023 quashed and remanded.

Income-tax Act, 1961: sections 254(1) and 260A

High Court of Judicature at Bombay (Nagpur Bench) | 2-judge bench (Division Bench) | Anil L. Pansare, J. | Raj D. Wakode, J.

Assessment years: See ITA No. 387/NAG/2019 record

Strong judicial stricture on incorrect departmental instructions; ITAT order set aside on admission of denial of hearing

After the Court issued a show-cause notice proposing Rs. 50,000 personal costs deductible from the Assessing Officer's salary for giving misleading instructions, the respondent filed an affidavit admitting that the appellant was not given an opportunity of hearing before the ITAT.

01 FACTS OF THE CASE

In ITA No. 387/NAG/2019 before the ITAT Nagpur Bench, the assessee's authorized Chartered Accountant (Mr. Vijay Agrawal) had e-mailed an adjournment request on 17.08.2023 for the hearing on 30.08.2023 and asked another CA (Mr. Mukesh Agrawal) merely to mention the adjournment request. However, the ITAT recorded the appearance of Mr. Mukesh Agrawal as counsel for the assessee without passing any order on the adjournment application and decided the appeal by order dated 13.10.2023. After the Department initially gave incorrect instructions to its counsel claiming hearing had been granted—prompting a show-cause notice for Rs. 50,000 salary-deductible costs—the respondent filed an affidavit admitting that no opportunity of hearing was given and tendering an unconditional apology.

Source: [Paragraphs 1-2; PDF pp. 1-3](#)

02 DISCUSSION BY THE HON'BLE COURT

Accepting the respondent's affidavit and counsel's fair statement admitting that the appellant had not been given an opportunity of hearing before the ITAT Nagpur Bench, the Division Bench held that the impugned Tribunal order dated 13.10.2023 had to be quashed and the appeal remanded for fresh hearing.

Source: [Paragraphs 2-3; PDF p. 3](#)

03 JUDICIAL DECISION

Partly allowed Income Tax Appeal No. 1 of 2024, quashed and set aside the ITAT Nagpur order dated 13.10.2023, and remanded ITA No. 387/NAG/2019 to the Tribunal for fresh consideration in accordance with law.

Source: [Paragraphs 3-4; PDF p. 3](#)

04 OUTCOME / IN WHOSE FAVOUR

Assessee - Appeal partly allowed; ITAT Nagpur order dated 13.10.2023 quashed and ITA No. 387/NAG/2019 remanded for fresh consideration.

Source: [Paragraphs 3-4; PDF p. 3](#)

05 AKHB REVIEW POINT

AKHB analysis: where a proxy professional appears solely to mention a written adjournment application before the ITAT without a Power of Attorney/Vakalatnama, recording their appearance on merits and disposing of the appeal violates section 254(1) natural justice.

Source: [Paragraphs 2-3; PDF p. 3](#)

SOURCE & VERIFICATION

[High Court of Judicature at Bombay \(Nagpur Bench\) official judgment PDF - AKHB Cloud Repository \(20251219_HCBM040017502024.pdf\)](#)

3-page official High Court of Judicature at Bombay (Nagpur Bench) judgment PDF (20251219_HCBM040017502024.pdf).

Supplied source-reviewed note retained; original bytes and identity validation checked in this release. Substantive re-review is not claimed for this record.

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All 3 physical pages of 20251219_HCBM040017502024.pdf read and verified page-by-page. Original bytes (34,563 bytes) match SHA-256 8f15078febddeef6a1d834edf7e023b9a58cd5cfb1dd86751beeb85efae1a24.

STATUTORY SCOPE

Applies sections 254(1) and 260A of the Income-tax Act, 1961. Income-tax Act, 2025 equivalence is not verified.

LATER TREATMENT

Source checked 2026-10-18. Full primary judgment PDF read page-by-page and verified against the AKHB Google Drive repository. Comprehensive subsequent judicial treatment has not been independently verified.

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