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.

Hearing opportunity before the ITAT; no statutory section expressly cited

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

Assessment years:

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

The earlier order reproduced here records that authorised CA Vijay Agrawal emailed an adjournment request on 17 August 2023 for the 30 August hearing and asked Mukesh Agrawal merely to mention it. The Tribunal recorded Mukesh's appearance and decided the appeal without an order on adjournment. After delayed and then incorrect departmental instructions, the Court sought an explanation why Rs. 50,000 personal costs should not be imposed. On 19 December 2025, the respondent's affidavit admitted that a hearing had not been given, tendered an apology and assured against repetition.

Source: PDF pp. 1-3, reproduced earlier order and para 2

02 DISCUSSION BY THE HON'BLE COURT

The Court accepted Revenue counsel's statement that the appellant had not received a hearing. That admission supported remand. The earlier criticism concerned inaccurate instructions and wasted judicial time; the final order does not state that the proposed Rs. 50,000 costs were actually imposed or deducted.

Source: PDF p. 3, paras 2-3 and preceding quotation

03 JUDICIAL DECISION

Income Tax Appeal 1/2024 was partly allowed. The ITAT Nagpur order dated 13 October 2023 was quashed, and ITA 387/NAG/2019 was remanded for fresh consideration in accordance with law. The appeal was disposed of in those terms.

Source: PDF p. 3, paras 3-4

04 OUTCOME / IN WHOSE FAVOUR

Assessee obtained a fresh Tribunal consideration because the absence of a hearing was admitted. The High Court did not decide the underlying tax grounds or direct a predetermined merits result.

Source: PDF p. 3, operative clauses i-iii

05 EXPERT COMMENTS

A recorded appearance did not establish an effective hearing — The factual distinction is between mentioning an adjournment request and being authorised to conduct the appeal. The respondent ultimately admitted no hearing had been given. This combination, rather than a universal entitlement to adjournment whenever emailed, explains the remand. The source does not identify a missing vakalatnama or power-of-attorney document.

Keep proposed sanctions distinct from final sanctions — The Rs. 50,000 amount appears in a show-cause direction, with salary deduction conditional on an unsatisfactory answer. The final order records an apology and assurance, then grants remand relief without an express costs award. Reporting the threatened amount as an imposed personal penalty would misstate the disposition.

Remand restores adjudication rather than resolving tax liability — The precise order vacated is dated 13 October 2023 and the appeal restored for fresh consideration is ITA 387/NAG/2019. Neither the assessment year nor the disputed addition appears here. A litigation record should link the new hearing to that docket and retain the original substantive grounds, without presenting this procedural success as allowance of those grounds.

Source: Editorial analysis; source references in the structured comments

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).

All 3 original pages read and visually inspected; source hash verified. AI-assisted substantive correction.

Open cited source rendition

Source bytes and identity checked; see panel-specific references and disclosed source anomalies.

STATUTORY SCOPE

The order resolves denial of a hearing and remands the appeal. It does not expressly cite sections 254(1) or 260A, specify an assessment year or decide the tax merits.

LATER TREATMENT

Source checked 2026-10-21. Subsequent treatment not independently verified.

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

PROFESSIONAL DISCLAIMER

General research information only; not legal or tax advice, a certified judgment or a substitute for the full order. Applicability depends on facts, assessment year, statutory version and jurisdiction. Subsequent treatment is unverified unless identified sources are expressly stated. Downloading does not create a professional engagement. Obtain case-specific advice before reliance.