

आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, PUNE

श्री डी. करुणाकरा राव, लेखा सदस्य, एवं श्री विकास अवस्थी, न्यायिक सदस्य के समक्ष ।
BEFORE SHRI D. KARUNAKARA RAO, AM AND SHRI VIKAS AWASTHY, JM

आयकर अपील सं. / ITA No.1061/PUN/2016

निर्धारण वर्ष / Assessment Year : 2011-12

Shri Dilip Ganpatrao Bharitkar,
C-59, Abhimanshree Co. Op.
Hsg. Society, Pashan Road,
NCL, Pune-411008

PAN : AARPB9111A

.....अपीलार्थी / Appellant

बनाम / V/s.

Income Tax Officer,
Ward – 4(6), Pune

.....प्रत्यर्थी / Respondent

Assessee by : Shri M.K. Kulkarni
Revenue by : Dr. Vivek Agrawal

सुनवाई की तारीख / Date of Hearing : 01-03-2018
घोषणा की तारीख / Date of Pronouncement : 07-03-2018

आदेश / ORDER

PER VIKAS AWASTHY, JM :

This appeal has been filed by the assessee assailing ex-parte order passed by Commissioner of Income Tax (Appeals)-3, Pune dated 01-02-2016 for the assessment year 2011-12.

2. The brief facts of the case as emanating from records are : The assessee is a commission agent, estate broker and is also engaged in consultancy in plastic moulds etc. Admittedly, the assessee is not maintaining any books of account. The assessee filed his return of income for the assessment year under appeal on 30-05-2011 declaring total income of Rs.1,54,521/-. The case of the assessee was selected for scrutiny under CASS. Accordingly, statutory notice u/s. 143(2) of the Income Tax Act, 1961 (hereinafter referred to as "the Act") was issued to the assessee on 01-08-2012. During the course of scrutiny assessment proceedings, the Assessing Officer made addition of Rs.11,45,500/- on account of unexplained cash deposits in his saving bank account with ICICI Bank and Rs.46,23,179/- in respect of Capital Gains from sale of property acquired by his son Uday Bharitkar (minor) by way of inheritance from the father of assessee.

Aggrieved by the assessment order dated 19-03-2014, the assessee filed appeal before the Commissioner of Income Tax (Appeals). The Commissioner of Income Tax (Appeals) vide impugned order dismissed the appeal of assessee.

3. Shri M.K. Kulkarni appearing on behalf of the assessee submitted at the outset that the Commissioner of Income Tax (Appeals) without affording proper opportunity of hearing to the assessee has dismissed the appeal in an ex-parte proceeding. The ld. Counsel for the assessee submitted that the matter may be remitted back to the file of Commissioner of Income Tax (Appeals) for deciding the matter afresh after affording opportunity of hearing to the assessee.

4. Dr. Vivek Agrawal representing the Department fairly admitted that the order has been passed by the Commissioner of Income Tax (Appeals) in an ex-parte proceeding. However, the ld. DR submitted that the notice of appeal was served on the assessee. Neither the assessee nor any authorized representative of the assessee attended the proceedings before the First Appellate Authority.

5. We have heard the submissions made by representatives of rival sides and have perused the orders of authorities below. It is apparent from record that the impugned order has been passed by the Commissioner of Income Tax (Appeals) in an ex-parte proceeding. In ground No. 1 of the appeal, the assessee has assailed the order of Commissioner of Income Tax (Appeals) on account of ex-parte proceedings. In the interest of justice, we deem it appropriate to remit this appeal back to the file of Commissioner of Income Tax (Appeals) for deciding the grounds raised in appeal afresh, after affording opportunity of hearing to the assessee, in accordance with law. The Commissioner of Income Tax (Appeals) shall pass speaking order by duly respecting the principles of natural justice. Accordingly, the impugned order is set aside and the appeal of assessee is allowed for statistical purpose.

6. In the result, the appeal of assessee is allowed for statistical purpose.

Order pronounced on Wednesday, the 07th day of March, 2018.

Sd/-	Sd/-
(डी. करुणाकरा राव/D. Karunakara Rao)	(विकास अवस्थी / Vikas Awasthy)
लेखा सदस्य / ACCOUNTANT MEMBER	न्यायिक सदस्य / JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 07th March, 2018

RK

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त (अपील) / The CIT(A)-3, Pune
4. The Pr. CIT-2, Pune
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच,
पुणे / DR, ITAT, "B" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति // True Copy//

आदेशानुसार / BY ORDER,

निजी सचिव / Private Secretary,
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune