

आयकर अपीलीय अधिकरण पुणे न्यायपीठ एक-सदस्य मामला पुणे में

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

सुश्री सुषमा चावला, न्यायिक सदस्य के समक्ष
BEFORE MS. SUSHMA CHOWLA, JM

आयकर अपील सं. / ITA No.1039/PUN/2018

निर्धारण वर्ष / Assessment Year : 2013-14

Bhat Nagarkar Developers,
Flat No.404, Ideal Square,
Paud Road, Near Geetai Sankul,
Kothrud, Pune – 411038

.... अपीलार्थी/Appellant

PAN: AAHFB7223R

Vs.

The Income Tax Officer,
Ward 3(4), Pune

.... प्रत्यर्थी / Respondent

अपीलार्थी की ओर से / Appellant by : Smt. Deepa Khare
प्रत्यर्थी की ओर से / Respondent by : Shri M.K. Verma

सुनवाई की तारीख / Date of Hearing : 13.08.2018	घोषणा की तारीख / Date of Pronouncement: 30.08.2018
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आदेश / ORDER

PER SUSHMA CHOWLA, JM:

The appeal filed by assessee is against order of CIT(A), Pune-3, dated 25.04.2018 relating to assessment year 2013-14 against order passed under section 250 of the Income-tax Act, 1961 (in short 'the Act').

2. The assessee has raised the following grounds of appeal:-

1. *The learned CIT(A) erred in law and on facts in dismissing the appeal of the appellant for non-attendance when there was sufficient cause for his non-compliance.*
2. *The learned CIT(A) erred in law and on facts in construing that there was a delay of 51 days which period forms part of extension given by CBDT Circular dt 26.05.2016 relating to E-Filing of Appeals – Extension of time limit.*

3. The assessee is in appeal against dismissal of appeal by the CIT(A) for non-attendance and also for the alleged default in filing the appeal late before the CIT(A) by 51 days.

4. Smt. Deepa Khare appeared on behalf of assessee and Shri M.K. Verma appeared on behalf of Revenue.

5. On perusal of record and in the facts of present case, the assessee was aggrieved by the order of Assessing Officer passed under section 143(3) of the Act and filed an appeal before the CIT(A) on different issues. However, the appeal of assessee was dismissed *in limine* by the CIT(A) on the ground of non-attendance on different dates of hearing. Further, the appeal was also dismissed as it was filed after the delay of 51 days which was not condoned by the CIT(A). The CIT(A) has failed to decide the issue on merits and has only dismissed the appeal *in limine*.

6. The assessee has pointed out that there was no delay in filing the appeal late before the CIT(A), since e-filing procedure of appeals before the CIT(A) had started and there was extension of time in filing the appeal and the appeal was filed within extended time. The assessee has filed an affidavit in this regard. In the entirety of the said facts and circumstances, when appeal has been filed within extended time, then the appeal cannot be dismissed by the CIT(A) on the alleged ground of delay in filing the appeal late, the same is condoned.

7. Now, coming to the non-attendance by the assessee before the CIT(A), wherein the assessee points out that non-attendance was on account of closure of business of the firm and shifting of office of the firm to new address at Flat No.404, Ideal Square, Nav Swarajya Society, Paud Road, Kothrud,

Pune – 411038. In the affidavit, it has been stated that non-attendance was on account of non-receipt of notices sent at the old address. In view thereof, there is merit in the plea of assessee that there was sufficient cause in non-receipt of notices. The assessee is directed to furnish complete details of new address before the CIT(A), which are also filed before us. We reverse the order of CIT(A) and restore the matter back to the file of CIT(A) to decide the issue on merits after affording reasonable opportunity of hearing to the assessee. The grounds of appeal raised by the assessee are thus, allowed for statistical purposes.

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

Order pronounced on this 30th day of August, 2018.

Sd/-
(SUSHMA CHOWLA)

न्यायिक सदस्य / JUDICIAL MEMBER

पुणे / Pune; दिनांक Dated : 30th August, 2018.

GCVSR

आदेश की प्रतिलिपि अद्येपित/Copy of the Order is forwarded to :

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. आयकर आयुक्त(अपील) / The CIT(A), Pune-3;
4. The Pr.CIT-2, Pune;
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे, एक-सदस्य
मामला / DR 'SMC', ITAT, Pune;
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

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