

आयकर अपीलीय अधिकरण "एक-सदस्य" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH, PUNE

BEFORE SHRI D. KARUNAKARA RAO, AM AND
SHRI PARTHA SARATHI CHAUDHURY, JM

आयकर अपील सं. / ITA No.723/PUN/2018

निर्धारण वर्ष / Assessment Year : 2009-10

M/s. Woodbury Estates & Securities
Private Limited.
633, Pulachi Wadi, Abhinandan
Plaza, Deccan Gymkhana,
Pune-411 004.
PAN : AAACW5280H

.....अपीलार्थी / Appellant

बनाम / V/s.

The Assistant Commissioner of Income Tax,
Circle-7, Pune.

.....प्रत्यर्थी / Respondent

Assessee by : Shri Suhas Bora
Revenue by : Shri M.K Verma

सुनवाई की तारीख / Date of Hearing : 06.02.2019

घोषणा की तारीख / Date of Pronouncement : 07.02.2019

आदेश / ORDER

PER PARTHA SARATHI CHAUDHURY, JM :

This appeal preferred by the assessee emanates from the order of Ld. CIT(Appeals), Pune-5, Pune dated 09.01.2018 for the assessment year 2009-10 as per following grounds of appeal on record:

"On facts and in law,

- 1. The learned CIT(A) erred in passing the ex-parte order without giving reasonable opportunity of hearing to the appellant.*

2. *The learned CIT(A) failed to appreciate that appellant submitted a letter of adjournment on 28.08.2017 which was not granted to him without understanding the reason for the adjournment.*
3. *The learned CIT(A) failed to appreciate that he ought to have verified the reasons given by the appellant for seeking an adjournment before passing the ex-parte order. Therefore, the order passed by the Ld. CIT(A) may be set aside.*
4. *Without prejudice to above, on the merits, CIT(A):*
 - a. *has not appreciated all the facts regarding an addition of Rs.19,56,000/- made by the AO on the ground of disallowance of interest on ad-hoc basis.*
 - b. *has erred in confirming the action of the AO of treating the income of the appellant at Rs. Nil as against the loss of Rs.53,36,600/- disclosed by the appellant Co. in the return of income.*
5. *The appellant craves leave to add, alter, amend or delete any of the above grounds of appeal.”*

2. On perusal of the grounds of appeal, the first ground of appeal states that the Ld. CIT(Appeals) has erred in passing an ex-parte order without giving reasonable opportunity to the assessee.

In view of the ground, the Ld. AR of the assessee, at the time of hearing, filed an affidavit wherein it contains the reasons for which the assessee was unable to appear before the Ld. CIT(Appeals). That on submission of the same, the Ld. AR requested that one final opportunity may be provided to the assessee and matter may be restored to the file of the Ld. CIT(Appeals) in view of the adjudication of the legal rights and liabilities of the parties therein.

3. The Ld. DR conceded to the prayer of the Ld. AR of the assessee.

4. We have perused the case records and heard rival contentions and also have given thoughtful consideration to the affidavit filed at the time of hearing by the assessee stating reasons for which he did not appear before the Ld. CIT(Appeals). It has also been prayed before us that the matter may be

restored to the file of the Ld. CIT(Appeals) in view of the ex-parte order being passed. On perusal of the order of Ld. CIT(Appeals), we find that the contentions of the assessee is correct. The rights and liabilities of the parties are yet to be determined and adjudicated upon. Therefore, we set aside the order of the Ld. CIT(Appeals) and restore the matter back to his file for adjudication in compliance with the principles of natural justice.

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

Order pronounced on 07th day of February, 2019.

Sd/-
D. KARUNAKARA RAO
ACCOUNTANT MEMBER

Sd/-
PARTHA SARATHI CHAUDHURY
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 07th February, 2019.
SB

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(Appeals), Pune-5, Pune.
4. The Pr. CIT, Pune-4, Pune.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "एक-सदस्य" बेंच, पुणे / DR, ITAT, "SMC" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

// True Copy //

आदेशानुसार / BY ORDER,

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

		Date	
1	Draft dictated on	06.02.2019	Sr.PS/PS
2	Draft placed before author	06.02.2019	Sr.PS/PS
3	Draft proposed and placed before the second Member		JM/AM
4	Draft discussed/approved by second Member		AM/JM
5	Approved draft comes to the Sr. PS/PS		Sr.PS/PS
6	Kept for pronouncement on		Sr.PS/PS
7	Date of uploading of order		Sr.PS/PS
8	File sent to Bench Clerk		Sr.PS/PS
9	Date on which the file goes to the Head Clerk		
10	Date on which file goes to the A.R		
11	Date of dispatch of order		