

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

BEFORE  
SHRI ANIL CHATURVEDI, AM

आयकर अपील सं. / ITA No.1165/PUN/2019  
निर्धारण वर्ष / Assessment Year : 2011-12

Shri Saumyasanta Chaudhari,  
C/O CA Sudhir Paithankar,  
Office No. 205, Bharat Bhavan,  
1360 Shukrawar Peth,  
Bajirao Road, Pune - 411002

..... अपीलार्थी /  
Appellant

PAN : AAPPC7614K

बनाम v/s

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

..... प्रत्यर्थी /  
Respondent

Assessee by : Ms. M.N. Kulkarni  
Revenue by : Shri Chandra Bhanu Mandal

सुनवाई की तारीख / Date of Hearing : 30.09.2019	घोषणा की तारीख / Date of Pronouncement: 30.09.2019
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आदेश / ORDER

PER ANIL CHATURVEDI, AM :

1. This appeal filed by assessee is against the order of Commissioner of Income Tax (Appeals) - 8, Pune for the assessment year 2011-12.

2. The relevant facts as culled out from the material on record are as under :-

Assessee is an individual stating to have income from salary, house property and other sources. Assessee filed his return of

income for A.Y. 2011-12 on 29-07-2011 declaring total income at Rs.26,96,410/-. The case was selected for scrutiny and thereafter assessment was framed u/s 143(3) of the Act vide order dated 08-03-2014 and the total income was determined at Rs.49,14,725/-. Aggrieved by the order of AO, assessee carried the matter before Ld.CIT(A), who vide order dated 20-05-2019 (in appeal No.PN/CIT(A)-8/DCIT, Cir-7/517/18-19) dismissed the appeal of the assessee. Aggrieved by the order of Ld.CIT(A), assessee is now in appeal and has raised the following grounds :

1. *CIT(A) has erred in confirming the additions made by the Assessing Officer and passing ex Parte Order.*
2. *CIT(A) has erred in confirming the dividend income claimed exempt in the return, as income u/s. 68 of the Act. Appellant prays to delete the same.*
3. *CIT(A) has erred in confirming addition for alleged Bank Deposit with State Bank of Mysore of Rs.12,73,560/- as income u/s. 68. Also CIT(A) failed to call the Bank Statement, which Assessing Officer has Called from Bank.*
4. *Without prejudice to ground No. 2 and 3, CIT(A) has failed to consider that provisions of Sec. 68 are not applicable to same.*
5. *CIT(A) has erred and failed confirm the estimate of deemed Income of Rs.1,76,250/- and thereby making addition of Rs.1,23,315/-. All the addition may please be cancelled as Assessee has offered in the Return.*
6. *Without prejudice to ground No. 5 above, lower authorities have erred in even not deducting the income of Rs.3750/- offered in the return, while making addition.*
7. *CIT(A) has erred in confirming addition made by Assessing Officer of Rs.4,57,840/- on account of receipt of ITL employees Super Annuation Fund Trust. Appellant prays to delete the same.*
8. *Without prejudice to Ground No. 7, CIT(A) has failed to direct the Assessing Officer to at least give TDS credit on the same.*
9. *CIT(A) has erred in not being Just and Fair, at least calling file from Assessing Officer and looking into submissions made by assessee, or obtained by him and making double additions.*
10. *Appellant prays to add, amend, take additional ground/s and/or without the ground/s, during appeal proceedings. Appellant prays to allow the same.”*

3. Before me, at the outset, Ld. A.R. submitted that the CIT(A) has passed an ex-parte order without deciding the issue on merits. She submitted that the assessee could not appear before the CIT(A) as the notice was not served upon the assessee and the Postman wrongly stated that assessee has left the premises. She submitted that there is no change in the address as the CIT(A)'s order was received by the assessee at the same address. She therefore submitted that one more opportunity be granted to the assessee to present his case before the lower authorities and further submitted that she undertakes on behalf of the assessee that the assessee will fully cooperate and appear before the lower authorities. Ld. D.R. on the other hand, submitted that there was total non-compliance by the assessee before AO and Ld. CIT(A) and in such a situation, there was no other option left to them but to pass an ex-parte order. He thus supported the order of lower authorities.

4. I have heard the rival submissions and perused the material on record. I find that in the present case, the order passed by Ld. CIT(A) is an ex-parte order wherein he has dismissed the appeal of the assessee without going into the merits of the case. It is a settled law that Ld. CIT(A) has no jurisdiction to dismiss the appeal of the assessee without going into the merits of the issue before him. Even in an ex parte order, the Ld. CIT(A) should have decided the grounds of appeal of the assessee on merits thereof. Considering the aforesaid facts, I am of the view that in the interest of justice and fair play, the assessee be given one more opportunity to present his case. I therefore remit the issue back to the file of CIT(A) for him to decide the issue afresh on merits and in accordance with law. Needless to

state that CIT(A) shall grant adequate opportunity of hearing to both the parties. Assessee is also directed to promptly furnish the details called for by the authorities. In case, the assessee fails to furnish the required details, the authorities shall be free to decide the issue based on material on record. In view of my decision to restore the issue back to the file of CIT(A), I am not adjudicating on merits the other grounds of the appeal raised by the assessee. **Thus, the grounds of assessee are allowed for statistical purposes.**

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

Order pronounced on the 30<sup>th</sup> day of September, 2019.

**Sd/-**

**(ANIL CHATURVEDI)**

**लेखा सदस्य / ACCOUNTANT MEMBER**

पुणे Pune; दिनांक Dated : 30<sup>th</sup> September, 2019.

RK

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. The CIT (A)-8, Pune
4. The Pr.CIT-4, Pune
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "एक सदस्य" / DR, ITAT, "SMC" Pune;
6. गार्ड फाईल / Guard file.

**आदेशानुसार/ BY ORDER**

// True Copy //

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