

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.1161/PUN/2019
निर्धारण वर्ष / Assessment Year : 2013-14

Pritam Raju Tungatkar,
L/H of Raju Narayan Tungatkar,
1360, Shukrawar Peth,
Near Kala Haud, Pune-411002

..... अपीलार्थी /
Appellant

PAN : ACBPT2831K

बनाम v/s

The Income Tax Officer,
Ward - 6(5), Pune

..... प्रत्यर्थी /
Respondent

Assessee by : Shri Pramod Shingte
Revenue by : Shri Chandra Bhanu Mandal

सुनवाई की तारीख / Date of Hearing : 30.09.2019	घोषणा की तारीख / Date of Pronouncement: 30.09.2019
---	---

आदेश / ORDER

PER ANIL CHATURVEDI, AM :

1. This appeal filed by assessee is against the order of Commissioner of Income Tax (Appeals) - 4, Pune for the assessment year 2013-14.

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

Assessee is an individual stated to be having income from business, rent and interest income. Assessee filed his return of income for A.Y. 2013-14 on 29-03-2014 declaring total income at

Rs.8,56,120/- and agricultural income of Rs.85,000/-. In this case, on the basis of information received by the AO from the Dy. Director (Inv.)-II, Pune, notice u/s. 148 was issued on 18-05-2015 and served on the assessee. Thereafter, the case was taken up for scrutiny and consequently assessment was framed u/s 143(3) r.w.s. 147 of the Act vide order dated 30-12-2016 and the total income was determined at Rs.40,33,532/-. Aggrieved by the order of AO, assessee carried the matter before Ld.CIT(A), who vide order dated 30-01-2019 (in appeal No.PN/CIT(A)-4/Wd-6(5), Pune/369/2016-17) 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. *On the facts and in the circumstances of the case and in law Ld. Commissioner of Income Tax (Appeals)-4, Pune erred in passing an ex-parte order without appreciating the fact that due to valid and sufficient reasons Your Appellant could not attend the hearing and without considering the merit of the case, Your Appellant prays for set aside the matter to the CIT (Appeals) in the interest of principal of natural justice.*

Without prejudice to the above ground it is pray before Your Honors to consider following grounds of appeal.

2. *On the facts and in the circumstances of the case and in law Lower Authorities has erred in making addition of Rs.24,77,712/- on account of alleged unexplained credit in Bank of Maharashtra and Cosmos bank by disregarding appellants contention, the entire addition needs to be deleted.*

3. *On the facts and in the circumstances of the case and in law Ld. AO erred in making addition of Rs.7,00,000/- on account of unexplained land gut No. 29 Kutarwadi, by disregarding appellant's contention, same may kindly be deleted.*

The appellant craves for to leave, add, alter, modify, delete above ground of appeal before or at the time hearing, in the interest of natural justice.”

3. Before me, at the outset, Ld. A.R. filed affidavit of legal heir of assessee and submitted that due to prolonged illness of assessee, the

assessee could not appear before the CIT(A) and he expired on 17-11-2018 which has resulted into ex-parte order by CIT(A). He further submitted that the CIT(A) has passed an ex-parte order without deciding the issue on merits. He therefore submitted that one more opportunity be granted to the assessee to present his case before the lower authorities and further submitted that he 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 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 assessment order was framed by the AO u/s 143(3) r.w.s 147 of the Act whereby against the declared income of Rs.8,56,120/- the total income was assessed at Rs.40,33,532/-. Even 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 before CIT(A). I therefore remit the issue back to the file of CIT(A) 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 30th day of September, 2019.

Sd/-

(ANIL CHATURVEDI)

लेखा सदस्य / ACCOUNTANT MEMBER

पुणे Pune; दिनांक Dated : 30th 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)-4, Pune
4. The Pr.CIT-3, 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.