

आयकर अपीलीय अधिकरण, पुणे न्यायपीठ “एक-सदस्य मामला” पुणे में
**IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH “SMC”, PUNE**

श्री डी. करुणाकरा राव, लेखा सदस्य के समक्ष
BEFORE SHRI D. KARUNAKARA RAO, AM

आयकर अपील सं. / **ITA No.1287/PUN/2019**
निर्धारण वर्ष / **Assessment Year : 2013-14**

M/s. Bhat Nagarkar Developers,
Flat No.1, Karnik Apartment,
Survey No.30/2,
Near Mehandale Garage,
Erandawana, Pune-411004.

PAN : AAHFB7223R अपीलार्थी/Appellant

Vs.

ITO, Ward-3(1),
Pune. प्रत्यर्थी / Respondent

आयकर अपील सं. / **ITA No.1288/PUN/2019**
निर्धारण वर्ष / **Assessment Year : 2014-15**

Shamindra Vilas Nagarkar,
15/6, Ninad, Off Karve Road,
Erandawana, Pune-411004.

PAN : AAJPN0844L अपीलार्थी/Appellant

Vs.

ITO, Ward-3(1),
Pune. प्रत्यर्थी / Respondent

अपीलार्थी की ओर से / Appellant by : Smt. Deepa Khare
प्रत्यर्थी की ओर से / Respondent by : Shri Sachin Y. Jawale

सुनवाई की तारीख / Date of Hearing : 18.12.2019	घोषणा की तारीख / Date of Pronouncement: 18.12.2019
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आदेश / ORDER

PER D. KARUNAKARA RAO, AM :

Both the appeals are filed by the two different assesseees against the separate orders of CIT(A)-3, Pune dated 03.07.2019 and 02.07.2019 for the Assessment Years 2013-14 and 2014-15 respectively.

2. Before me, ld. Counsel for the assessee submitted that in both the appeals the facts are common, therefore, they can be adjudicated together in the composite order.

3. Bringing my attention to the assessment orders, ld. Counsel mentioned that the Assessing Officer made assessments u/s 143(3) of the Act after making certain additions to the income returned by the assesseees. The additions were made without giving sufficient opportunity to the assesseees to rebut the proposal of additions by the Assessing Officer.

4. Bringing my attention to the orders of the CIT(A), ld. Counsel mentioned that the orders were made by the CIT(A) in *ex-parte* manner merely on the ground of non-attendance of the assesseees on various dates of hearing i.e. 12.02.2018, 16.04.2018 etc. The CIT(A) mentioned about the said facts in para 5 of his order wherein non-attendance was substantially highlighted and ignored the fact that Shri Ashish Kumar Agrawal attended to the proceedings before the CIT(A). Further, bringing my attention to the affidavit of Shri Agrawal filed before me, ld. Counsel for the assessee submitted that the same constitutes an evidence in support of the cooperation of the assessee before the CIT(A). Nevertheless, the ld. Counsel pleaded for remanding all the issues raised by the assesseees in both the appeals to the file of the CIT(A) for fresh adjudication of the issue after granting sufficient opportunity of hearing to the assesseees.

5. On hearing both the sides and on perusing the facts, I find the right of appeal is very precious and the duty is cast on the lower authorities to grant sufficient opportunity to the assesseees. The fact that the assessee sought adjournment is evident on the face of the orders of the CIT(A). This is a case where the CIT(A) as well as Assessing Officer never imposed any

penalty for non-attendance of the assessee in both the appeals. It is duty of the CIT(A) to make the order in line with the spirit of the provisions of section 250(6) of the Act. Accepting the ld. Counsel's proposal for remanding all the issues raised by the assessee in both the appeals stands allowed. Thus, all the issues raised by the assessee in both the appeals are remanded to the file of the CIT(A) for fresh adjudication. Needless to say, the CIT(A) shall grant reasonable opportunity of being heard to the assessee in accordance with set principles of natural justice. Accordingly, all the grounds raised by the assessee in both the appeals are allowed for statistical purposes.

6. In the result, both the appeals of the assessee are allowed for statistical purposes.

Order pronounced on this 18th day of December, 2019.

Sd/-
(D. KARUNAKARA RAO)
लेखा सदस्य / ACCOUNTANT MEMBER

पुणे / Pune; दिनांक Dated : 18th December, 2019.
Sujeet

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

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

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune