

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

BEFORE SHRI ANIL CHATURVEDI,  
ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.1640/PUN/2019  
निर्धारण वर्ष / Assessment year : 2011-12

Ajit Vijaysingh Nigade  
1<sup>st</sup> Floor, Gurukrupa Bunglow,  
Krishna Path, Opp. Wadeshwar Hotel,  
Law College Road,  
Pune

..... अपीलार्थी /  
Appellant

PAN : AAEPN5329D

बनाम v/s

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

..... प्रत्यर्थी /  
Respondent

Assessee by : Shri Nagesh Sambhajirao Jadhav

Revenue by : Shri Harshit Bari, DCIT

सुनवाई की तारीख / Date of Hearing : 23.01.2020	घोषणा की तारीख / Date of Pronouncement: 27.01.2020
---	---

आदेश / **ORDER**

**PER ANIL CHATURVEDI, AM :**

This appeal preferred by the assessee emanates from the order of the Ld. CIT(A)-1, Pune, dated 26.08.2019, 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 and his source of income is stated to be from agriculture, rental and interest income. The assessee filed his return of income for A.Y 2011-12 on 31.01.2012 declaring total income of

Rs.3,85,380/-. The case was selected for scrutiny and thereafter the assessment was framed u/s 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') vide order dated 29.03.2014 and the total income was determined at Rs.23,85,380/-. Aggrieved by the order of Assessing Officer, assessee carried the matter before Ld.CIT(A), who vide order dated 26.08.2019 (in appeal No.PN/CIT(A)-1/ITO,Wd-4(3), Pune/PN/118/17-18) dismissed the appeal of assessee. Aggrieved by the order of Ld.CIT(A), the assessee is now in appeal and has raised the following grounds:-

1. *The impugned OIA passed by the Ld. CIT(A)-1 is incorrect in law as well as on facts, therefore the same is liable to be set aside on this ground itself.*
2. *The amount of Rs.20,00,000/- which is considered to be non-agricultural income by the Ld. CIT(A)-1, is an agricultural income only.*
3. *Proper opportunity of being heard is not given to the Appellant and hence it leads to violation of natural justice.*
4. *The Appellant should not be held liable for the defect in the income tax department's system itself.*
5. *The Appellant craves leave to add, alter, amend and/or rescind any of the above grounds at the time of or before the personal hearing.*
6. *The Appellant craves leave to refer and rely upon any decision/case and /or judgment at the time of personal hearing.*

All the grounds being interconnected are considered together.

3. Before me, Ld.A.R. at the outset submitted that Ld.CIT(A) has passed an *ex-parte* order and has not decided the issue on merits but has considered the matter only on the basis of material on record. He submitted that since the change of jurisdiction, notice of hearing has not been served upon the assessee and hence, the assessee could not appear before Ld.CIT(A). He further submitted that if given a chance, assessee undertakes to appear before lower authorities and furnish all the required details to substantiate his case. He therefore submitted that assessee be granted one more

opportunity to explain his stand. Ld.D.R. on the other hand supported the order of AO and Ld.CIT(A) and objected to Ld.A.R.'s prayer for 2<sup>nd</sup> innings.

4. I have heard the rival submissions and perused the material on record. The assessee is aggrieved by the addition of Rs.20,00,000/- made by AO and upheld by Ld.CIT(A). The perusal of order of Ld.CIT(A) reveals that Ld.CIT(A) has passed an ex-parte order only on the basis of material available on record. In view of the well settled principle of natural justice that sufficient opportunity of hearing should be afforded to the parties and no party should be condemned unheard, I am of the view that one more opportunity be granted to the assessee to present his case before the authorities. Further Ld. AR has also given an undertaking of the appearance before CIT(A). I therefore restore the matter back to the file of Ld.CIT(A) for him to decide the issue on merits in accordance with law. Needless to state that Ld.CIT(A) shall grant adequate opportunity of hearing to both the parties. Assessee is also directed to promptly furnish all the details called for by the authorities. In view of my decision to restore the issue to Ld.CIT(A), I am not adjudicating on merits the 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 the assessee is allowed for statistical purposes.**

Order pronounced on 27<sup>th</sup> day of January, 2020.

**Sd/-**

**(ANIL CHATURVEDI)**

**लेखा सदस्य / ACCOUNTANT MEMBER**

पुणे Pune; दिनांक Dated : 27<sup>th</sup> January, 2020.  
GCVSR

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

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

आदेशानुसार/ BY ORDER

// True Copy //

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