

आयकर अपीलीय अधिकरण "ए" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, PUNE
(THROUGH VIRTUAL COURT)

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

आयकर अपील सं. / ITA No.251/PUN/2020

Mr. Kailash Narayan Renuse
S.No.661/4, Appar Bus Stop,
Bibwewadi, Pune – 411037

PAN : ALOPR0531J

.....अपीलार्थी / Appellant

बनाम / V/s.

The Income Tax Officer,
Ward-5(1), Pune

.....प्रत्यर्थी / Respondent

Assessee by : Shri Hari Krishan
Revenue by : Shri S.P. Walimbe

सुनवाई की तारीख / Date of Hearing : 03-06-2020

घोषणा की तारीख / Date of Pronouncement : 03-06-2020

आदेश / ORDER

PER PARTHA SARATHI CHAUDHURY, JM :

This appeal preferred by the assessee emanates from the order of the Ld. CIT(A), Pune-10, dated 13.12.2019.

2. Brief facts of the case are that the assessee is engaged in trading in oil, repairing, greasing and allied services related to two & three-wheelers and auto rickshaws. The assessee for the year under consideration had filed return of income declaring total income of Rs.2,69,311/- on

29.04.2015. The case was selected for scrutiny through CASS. Thereafter, the Assessing Officer completed the assessment by assessing total income at Rs.78,05,411/-.

3. The CIT(A) has upheld the order of the Assessing Officer.

4. Aggrieved with the order the CIT(A), the assessee is in appeal before us.

5. Both the parties heard and we have perused the background of the case and at the very outset, we find from the assessment order that the contention of Assessing Officer that in the original return, the assessee has not invoked provisions of section 44AD of the Income-tax Act, 1961 (hereinafter referred to as 'the Act'), but later on the assessee had revised its return of income and complied with provisions of section 44AD of the Act. It was the opinion of the Assessing Officer that once in the original return, provisions of 44AD of the Act was not invoked, then it is not open to the assessee to revise his return. That on similar grounds, the matter was dismissed by the CIT(A). The contention of Id. AR is that there are specific case laws that even if the return of income has filed on a particular section but later on, the assessee can revise his return of income and pleaded before us that the matter may be restored to the file of Assessing Officer to adjudicate afresh and before the Assessing Officer he will submit the relevant case laws as aforesaid. We are of the considered view on the facts and circumstances of the aforesaid case that the matter needs to be looked into afresh in the light of judicial pronouncements that if return is filed on a particular provision of the Act, then is it open for the assessee to

resort to another provision and as submitted by the ld. AR, he will submit case laws before the Assessing Officer and further section 44AD statutory ambit does not speak regarding filing of return of income on filing revised return and therefore, we set aside the order of CIT(A) and restore the matter back to the file of Assessing Officer for fresh consideration of the matter and at the same time, the ld. AR is directed to furnish the relevant case laws as submitted before us. The matter is therefore, allowed for statistical purposes.

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

Order pronounced in the open court on 3rd June, 2020.

Sd/-
D. KARUNAKARA RAO
ACCOUNTANT MEMBER

Sd/-
PARTHA SARATHI CHAUDHURY
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 3rd June, 2020
GCVSR

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent
3. The CIT (Appeals), Pune-10.
4. The Pr. CIT-3, Pune.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच,
पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.
//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

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