

आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, PUNE

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

आयकर अपील सं. / ITA No.2514/PUN/2017

निर्धारण वर्ष / Assessment Year : 2011-12

Controller of Defence Account,
(Officers),
Golibar Maidan, Pune – 411001

PAN : PNECO6129E

.....अपीलार्थी / Appellant

बनाम / V/s.

Additional Commissioner of Income Tax (TDS),
Pune

.....प्रत्यर्थी / Respondent

Assessee by : Shri Hari Krishan

Revenue by : Shri Alok Malviya

सुनवाई की तारीख / Date of Hearing : 08-06-2020

घोषणा की तारीख / Date of Pronouncement : 10-06-2020

आदेश / ORDER

PER PARTHA SARATHI CHAUDHURY, JM :

This appeal preferred by the assessee emanates from the order of Ld. CIT(Appeals)-10, Pune dated 16-08-2017 for the assessment year 2011-12 as per grounds of appeal on record.

2. At the outset, the Ld. AR submitted that the order passed by the Ld. CIT(Appeals) is an ex-parte order. The Ld. CIT(Appeals) went on to pass an order based on the material available on record namely, statement of facts and grounds of appeal as per Form-35 while filing the appeal before the First Appellate Authority. The Ld. AR prayed that one final opportunity may be provided to the assessee so that the matter may be discussed and represented on merits before the Ld. CIT(Appeals) and therefore, it should be restored to the file of Ld. CIT(Appeals).

3. On the other hand, the Ld. DR submitted that once the appeal is decided as per materials available on record, there was no need for the assessee to again go back to the Ld. CIT(Appeals) and referred to para 3 of the CIT(A) wherein already reasonable opportunity has been granted to the assessee.

4. We have perused the case record and heard the rival contentions and also have given thoughtful consideration to the order passed by the Ld. CIT(Appeals). We find that it is an ex-parte order where rights and liabilities of the assessee were not adjudicated upon. Since there was no appearance on record by the assessee and order of Ld. CIT(Appeals) was based only on materials available on records i.e. statement of facts, grounds of appeal filed by the assessee and the assessment order, the assessee should be given one final opportunity to defend his case through proper documentary evidences. In the interest of justice, we therefore, set aside the order of Ld. CIT(Appeals) and restore the matter back to his file for adjudication after providing reasonable opportunity of hearing to the assessee and at the same time, the assessee is directed to present himself before the Ld. CIT(Appeals) immediately on receipt

of this order to represent his case on merits. Any service of notice is dispensable.

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

Order pronounced on 10th day of June, 2020.

Sd/-
D. KARUNAKARA RAO
ACCOUNTANT MEMBER

Sd/-
PARTHA SARATHI CHAUDHURY
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 10th June, 2020.

RK

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(Appeals)-10, Pune.
4. The CIT(TDS), Pune.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच,
पुणे / DR, ITAT, "B" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

// True Copy //

आदेशानुसार / BY ORDER,

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