

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

(Through Virtual Court)

**BEFORE SHRI R. S. SYAL, VICE PRESIDENT
AND
SHRI S. S. VISWANETHRA RAVI, JUDICIAL MEMBER**

**आयकर अपील सं. / ITA No.210/PUN/2019
निर्धारण वर्ष / Assessment Year : 2008-09**

Pankaj Sumatilal Shah,
Shop No.1, 2, 3,
Dhanlaxmi Society,
796, Sadashiv Peth,
Pune-411030.

PAN: ACGPS6030E

..... आवेदक/Applicant

बनाम / V/s.

ITO, Ward-3(2),
Pune.

.....प्रत्यर्थी / Respondent

Assessee by : Smt. Deepa Khare
Revenue by : Shri Alok Malviya

सुनवाई की तारीख / Date of Hearing : 07.07.2020
घोषणा की तारीख / Date of Pronouncement : 09.07.2020

आदेश / ORDER

PER S. S. VISWANETHRA RAVI, JM:

The above-said appeal by the assessee is against the order dated 12.06.2018 passed by the CIT(A)-5, Pune for A.Y. 2008-09 wherein, the CIT(A) confirmed the order of the Assessing Officer *ex-parte* of the assessee.

2. We find this appeal was filed with the delay of 130 days. For condoning the said delay, the assessee filed delay condonation petition dated 19.06.2020. Upon perusing the same and hearing both the parties, we note that the

assessee has made out sufficient reasons for condoning the delay and in view of the same, we condone the delay of 130 days in filing of the appeal.

3. Brief facts relating to the appeal that the assessee filed the return of income declaring total loss of Rs.9,19,492/-. Under scrutiny, the Assessing Officer assessed the total income of the assessee at Rs.10,03,220/- *inter-alia* making the additions u/s 14A of the Act and for not giving proper explanation regarding the Will. The CIT(A) confirmed the same.

4. The contention of the ld. AR, Smt. Deepa Khare is that there was no opportunity for the assessee to prosecute his case before the CIT(A) and the CIT(A) disposed of appeal *ex-parte* of the assessee and prayed to remand the matter to the file of CIT(A).

5. On the other hand, Ld. DR, Shri Alok Malviya vehemently opposed the same and submitted that it is not an *ex-parte* order. The CIT(A) decided the issues based on the written submission filed by the assessee before him and referred to the relevant paragraphs of the impugned order in this regard.

6. After hearing both the parties and perusing the material available on record, we find that there was no opportunity to the assessee in the first appellate proceedings before the CIT(A), wherein, as has been noted in the assessment order by the Assessing Officer that the assessee could not give proper explanation regarding the Will. Therefore, considering the facts and circumstances of the case and taking into consideration of the submission of ld. AR, in the interest of justice, we deem it proper to remand the matter to the file of the CIT(A) for his fresh consideration. The assessee is at liberty to file

evidence, if any, in support of his contention. Thus, the grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced on 09th day of July, 2020.

Sd/-
(R. S. SYAL)
VICE PRESIDENT

Sd/-
(S. S. VISWANETHRA RAVI)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 09th July, 2020

Sujeet

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

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

आदेशानुसार / BY ORDER,

// True Copy //

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