

आयकर अपीलिय अधिकरण "ए" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, PUNE

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

आयकर अपील सं. / ITA No.2321/PUN/2017
निर्धारण वर्ष / Assessment Year : 2013-14

Mrs. Mangala Ramling Pimpale,
277, Bhenda Budruk, Tal.-Newasa,
Distt.-Ahmednagar – 414605

PAN : CSOPP9439G

.....अपीलार्थी / Appellant

बनाम / V/s.

The Income Tax Officer,
Ward – 2, Ahmednagar

.....प्रत्यर्थी / Respondent

Assessee by : N O N E
Revenue by : Shri Maruti W. Maddewad

सुनवाई की तारीख / Date of Hearing : 20-10-2020
घोषणा की तारीख / Date of Pronouncement : 20-10-2020

आदेश / ORDER

PER S.S. VISWANETHRA RAVI, JM :

This appeal by the assessee against the order dated 27-06-2017 passed by the Commissioner of Income Tax (Appeals)-2, Pune [‘CIT(A)’] for assessment year 2013-14 wherein he confirmed the order of Assessing Officer ex-parte of assessee.

2. We find there was no representation on behalf of the assessee nor any application filed seeking adjournment. Thus, the assessee called absent and set ex-parte. Therefore we proceed to dispose of the case by hearing the ld. DR and material available on record.

3. The brief facts of the case are that the assessee is an individual. The assessee sold a land jointly having 50% share and her part of the consideration was Rs.98,00,000/-. For not filing of the return of income, the AO issued notice u/s. 148 of the Act and in response to as emanating from the record the assessee did not file any return of income in response to notice u/s. 148 of the Act. The AO proceeded to complete the assessment to his best judgment u/s. 144/147 of the Act by adding above said amount u/s. 68 of the Act. The assessee challenged the same before the CIT(A). For non-appearance of assessee the CIT(A) basing on the material available on record held the same as income from Short Term Capital Gain.

4. We have perused the case records and heard the ld. DR. As discussed above there was no opportunity for the assessee before the AO nor in the First Appellate proceedings. We note that the AO added entire sale consideration u/s. 68 of the Act and the CIT(A) opined it should be treated as income from Short Term Capital Gain. In our considered opinion taking into consideration the facts and circumstances of the case we deem it proper to remand the matter to the file of AO that one more opportunity needs to be given to the assessee to present her case on merits so that justice can be delivered.

5. In view of the matter, we set aside the order of ld. CIT(A) and restore the matter to the file of AO for fresh adjudication after providing sufficient opportunity of hearing to the assessee. At the same time, we direct the assessee to present herself before the AO with evidences, if any, to represent her case on merits. Thus, grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open court on 20th October, 2020.

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

Sd/-
(S.S. Viswanethra Ravi)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 20th October, 2020.

RK

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-2, Pune
4. The Pr. CIT-1, 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,

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