

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

(Through Virtual Court)

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER
AND
SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.91/PUN/2018
निर्धारण वर्ष / Assessment Year : 2011-12

Manoj Sahadevrao Jadhav,
Flat No. 602, Ishan Shruti,
Warje, Pune-411052

PAN : AEOPJ8160N

.....अपीलार्थी / Appellant

बनाम / V/s.

The Income Tax Officer,
Ward - 3(1), Pune

.....प्रत्यर्थी / Respondent

Assessee by : N O N E
Revenue by : Shri Vitthal Bhosale

सुनवाई की तारीख / Date of Hearing : 11-06-2021
घोषणा की तारीख / Date of Pronouncement : 05-07-2021

आदेश / ORDER

PER S.S. VISWANETHRA RAVI, JM :

This appeal by the assessee against the order dated 28-11-2017 passed by the Commissioner of Income Tax (Appeals)-3, Pune [‘CIT(A)'] for assessment year 2011-12 wherein he confirmed the penalty order passed by the AO u/s. 271(1)(c) of the Act.

2. We find no representation on behalf of the assessee nor any application filed seeking adjournment. The assessee called absent and set ex-parte. Therefore, we proceed to hear the ld. DR and pass order basing on the material available on record.

3. The assessee raised as many as six grounds amongst which the effective ground raised for consideration is as to whether the CIT(A) justified in dismissing the appeal of the assessee without giving definite finding on petition filed to condone the delay in the facts and circumstances of the case.

4. Heard ld. DR and perused the material available on record.

5. We note that the assessee declared total income through his return of income at Rs.10,63,840/- and in the scrutiny assessment, the AO determined the same at Rs.13,80,233/- inter alia making addition u/s. 40A(3), 68 of the Act, income from other sources and undisclosed interest. The AO initiated proceedings u/s. 271(1)(c) of the Act for concealment of income. In the penalty proceedings, the assessee made submissions but however the AO imposed penalty of Rs.1,35,000/- vide his order dated 17-09-2014 u/s. 271(1)(c) of the Act.

6. Aggrieved by the order of AO, the assessee preferred an appeal before the CIT(A) but with a delay of 525 days. We note that to condone the said delay the assessee mainly contested that the assessment order and also penalty order was not served on him and he changed his address from

721, Balaji Complex, Guruwar Peth, Pune to the present address reflecting in the assessment order. We find that the CIT(A) specifically did not examine the record available with Revenue Department whether the statement of assessee to the effect that the assessee did not receive assessment and penalty orders true or not but however considering the reasons stated by the assessee in the condonation petition, the CIT(A) held no sufficient reasons made out by the assessee and dismissed the appeal without deciding the appeal on merits. The Id. DR submits that the assessee filed an appeal before the CIT(A) with abnormal delay and the assessee has got assistance of professional to look after the proceedings before the AO in assessment and penalty proceedings as well but the statement of non-receipt of orders is not correct. The assessee did not file any proof before the CIT(A) substantiating the reasons stated in the condonation petition with evidences. We note that the assessee is registered electrical contractor and undertakes the contracts for erection of electrical tower in remote area of State of Maharashtra for State Electricity Board and State Electricity Transmission Co. Ltd. It is also on record that the assessee changed his address from Guruwar Peth, Pune to Warje, Pune. We note that in the assessment order and in the impugned order the addresses were mentioned as Flat No. 602, Ishan Shrusti, Warje, Pune and as it appears the changed of address from Guruwar Peth to Warje area were not in the knowledge of Revenue Department. Therefore, considering the reasons stated in the condonation petition and as acknowledged by the CIT(A), we are of the opinion in the interest of justice the delay of 525 days are condoned since as discussed above the appeal was not decided on merits. We deem it proper to remand the matter to the file of CIT(A) for his

fresh consideration. Thus, the grounds raised by the assessee are allowed for statistical purpose.

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

Order pronounced in the open court on 05th July, 2021.

Sd/-
(Inturi Rama Rao)
ACCOUNTANT MEMBER

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

पुणे / Pune; दिनांक / Dated : 05th July, 2021.
RK

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

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