

आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "B" 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.526/PUN/2018

निर्धारण वर्ष / Assessment Year : 2013-14

Mohd. Anis Hajifarooq Punjabi,
626, Sadashiv Peth,
Opp. Bizziland, Kumthekar Chowk,
Pune - 411030

PAN : AJBPP7043C

.....अपीलार्थी / Appellant

बनाम / V/s.

Dy. Commissioner of Income Tax,
Circle - 12, Pune

.....प्रत्यर्थी / Respondent

Assessee by : Shri Sharad Shah
Revenue by : Shri Mahadevan A.M. Krishanan

सुनवाई की तारीख / Date of Hearing : 30-07-2021

घोषणा की तारीख / Date of Pronouncement : 30-07-2021

आदेश / ORDER

PER S.S. VISWANETHRA RAVI, JM :

This appeal by the assessee against the order dated 20-11-2017 passed by the Commissioner of Income Tax (Appeals)-5, Pune [‘CIT(A)’] for assessment year 2013-14.

2. The assessee raised 3 grounds amongst which the only issue emanates for our consideration is as to whether the CIT(A) justified in

dismissing the grounds ex-parte of assessee in the facts and circumstances of the case.

3. Heard both the parties and perused the material available on record. We note that the assessee is an individual and conducts its business under the name and style of M/s. KGN Enterprises. The assessee is engaged in the business of import and wholesale dealer of Dates, Spice and Pulse. The assessee filed its return of income declaring a total income of Rs.36,22,190/-. Under scrutiny proceedings, the AO found that the assessee has taken unsecured loans from various parties and requested the assessee to furnish the details of the same. According to the AO, the assessee failed to furnish the Address, PAN, Confirmation, acknowledgment of Return of Income and Bank Statement of some of the parties, thereby he added an amount of Rs.55,25,000/- on account of unexplained cash credits by holding that the assessee failed to prove the genuineness of this loans u/s. 143(3) of the Act. Against such order, the assessee challenged the same before the CIT(A). The ld. AR submits that the assessee could not receive any notices from the CIT(A) and for such non-appearance, the CIT(A) dismissed the grounds ex-parte of the assessee. The ld. AR referred to affidavit deposited by the assessee and submitted that during F.Y. 2017-18 (A.Y. 2018-19) and F.Y. 2018-19 (A.Y. 2019-20) the assessee has let out his property located in Sadashiv Peth, Kumthekar Chowk, Pune and that the tenant did not receive the notices sent by the CIT(A). He argued that the assessee due to non-service of notice could not appear before the CIT(A) and if this Tribunal gives an opportunity to the assessee, the assessee shall submit all the relevant documentary evidences before the AO. The ld. DR referred to Para No. 2 of the impugned order and argued that the CIT(A) has given ample opportunity to the assessee and having no option decided the appeal on the basis of material available on record. We note that in Para No. 4.2 of

the AO it was observed that the assessee has given Address and PAN of the some of the parties and he could not give the said details as sought by the AO for other parties. The AO discussed the same from Para Nos. 4.1.2 to 5.2 of his order. We find that in Para No. 5.2 the AO clearly held no confirmation has been filed in some of the cases and in other cases the details of Address or PAN not given. Therefore, the addition made on account of unexplained cash credits requires the assistance and relevant evidences in support of claim of the assessee, since, there was no details fully filed before the AO, we deem it proper to remand the issue to the file of AO, thus, the order of CIT(A) is set aside. The assessee is liberty to file evidences, if any in support of its claim. Thus, the grounds raised by the assessee are allowed for statistical purpose.

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

Order pronounced in the open court on 30th July, 2021.

Sd/-
(Inturi Rama Rao)
ACCOUNTANT MEMBER

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

पुणे / Pune; दिनांक / Dated : 30th 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)-5, Pune
4. The Pr. CIT-4, Pune
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच,
पुणे / DR, ITAT, "B" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.
//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

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