

आयकर अपीलीय अधिकरण "एक सदस्य मामला" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH, PUNE

(Through Virtual Court)

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

आयकर अपील सं. / ITA No.366/PUN/2020

निर्धारण वर्ष / Assessment Year : 2008-09

Fakira Namdev Kamthe,
C/o. Milind V. Joshi & Co.,
Chartered Accountants,
S. No. 698, Pansare Heights,
Sadashiv Peth, Off Laxmi Road,
Nr. Vijay Talkies, Pune – 411030

PAN : BJLPK8526N

.....अपीलार्थी / Appellant

बनाम / V/s.

The Income Tax Officer,
Ward – 14(4), Pune

.....प्रत्यर्थी / Respondent

Assessee by : N O N E
Revenue by : Shri Sudhendu Das

सुनवाई की तारीख / Date of Hearing : 05-10-2021

घोषणा की तारीख / Date of Pronouncement : 06-10-2021

आदेश / ORDER

PER S.S. VISWANETHRA RAVI, JM :

This appeal by the assessee against the order dated 22-11-2018 passed by the Commissioner of Income Tax (Appeals)-7, Pune [‘CIT(A)'] for assessment year 2008-09 wherein the CIT(A) dismissed the appeals ex-parte of the assessee.

2. We note that this appeal was filed with a delay of 33 days. The assessee filed an affidavit explaining the reasons for delay. On perusal of record and hearing the ld. DR, we find that the reasons stated by the assessee are bonafide which really prevented the assessee to file the present appeal in time. Therefore, the delay of 33 days is condoned.

3. At the time of hearing there was no appearance from the assessee nor through his representative and we observe that the order passed by the CIT(A) is an ex-parte order and liabilities of the assessee were not adjudicated upon. The ld. CIT(A) dismissed the appeal of the assessee on the ground of non-prosecution. We proceed with the case after hearing the submissions of ld. DR wherein it is evident that neither the assessee nor its authorized representative attended and filed the details evidences in support of appeal on merits. Therefore, the ld. DR vehemently opposed the prayer of providing any further opportunity to the assessee for representing his case on merits before the First Appellate Authority.

4. We have perused the case records and heard the ld. DR. We find that the ld. CIT(A) dismissed the appeal of the assessee on the ground of non prosecution. It is, therefore, clear that rights and liabilities of the parties were not adjudicated upon on merits and we are of the considered view that one final opportunity needs to be given to the assessee to represent his 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 back to his file for fresh adjudication after providing sufficient opportunity of hearing to the assessee. At the same time, we direct the assessee to present himself before the ld. CIT(A) with relevant documentary

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

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

Order pronounced in the open court on 06th October, 2021.

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

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

पुणे / Pune; दिनांक / Dated : 06th October, 2021.

RK

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-7, Pune
4. The Pr. CIT-6, Pune
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "एक सदस्य मामला" बेंच, पुणे / DR, ITAT, "SMC" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

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