

आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "B" 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.409/PUN/2019

निर्धारण वर्ष / Assessment Year : 2008-09

Venugopal Foods Pvt. Ltd.,
Plot No. J-8, Addl. MIDC,
Satara - 415004

PAN : AAACV6756F

.....अपीलार्थी / Appellant

बनाम / V/s.

Dy. Commissioner of Income Tax,
Satara Circle, Satara

.....प्रत्यर्थी / Respondent

Assessee by : Smt. Deepa Khare
Revenue by : Shri S.P Walimbe

सुनवाई की तारीख / Date of Hearing : 23-02-2022

घोषणा की तारीख / Date of Pronouncement : 23-02-2022

आदेश / ORDER

PER S.S. VISWANETHRA RAVI, JM :

This appeal by the assessee against the order dated 28-01-2019 passed by the Commissioner of Income Tax (Appeals)-4, Pune ['CIT(A)'] for assessment year 2008-09.

2. At the outset, the ld. AR submitted that the order passed by the ld. CIT(A) is an ex-parte order. The ld. CIT(A) went on to pass an order based on the material available on record namely, statement of facts and grounds of appeal as per Form-35 while filing the appeal before the First Appellate Authority. The ld. AR prayed that one final opportunity may be provided to the assessee so that the matter may be discussed and represented on merits before the ld. CIT(A) and therefore, it should be restored to the file of ld. CIT(A).

3. On the other hand, the ld. DR submitted that once the appeal is decided as per materials available on record, there was no need for the assessee to again go back to the ld. CIT(A).

4. We have perused the case record and heard the rival contentions and also have given thoughtful consideration to the order passed by the ld. CIT(A). We find that it is an ex-parte order where rights and liabilities of the assessee were not adjudicated upon. Since there was no appearance on record by the assessee and order of ld. CIT(A) was based only on materials available on records i.e. statement of facts, grounds of appeal filed by the assessee and the assessment order, the assessee should be given one final opportunity to defend his case through proper documentary evidences. In the interest of justice, we therefore, set aside the order of ld. CIT(A) and restore the matter back to his file for adjudication after providing reasonable opportunity of hearing to the assessee. Thus, the impugned order is set aside. The assessee is liberty to file evidences, if any, in support of its claim. Therefore, the grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open court on 23rd February, 2022.

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

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

पुणे / Pune; दिनांक / Dated : 23rd February, 2022.

रवि

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

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

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