

आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणे में ।  
IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, PUNE

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

आयकर अपील सं. / ITA No.1577/PUN/2018  
निर्धारण वर्ष / Assessment Year : 2008-09

Shri Sanjay Babasaheb Patil,  
252, E-Ward, Dipti Park,  
Assembly Road, Kolhapur

PAN : ABLPP1660K

.....अपीलार्थी / Appellant

**बनाम / V/s.**

Asstt. Commissioner of Income Tax,  
Central Circle, Kolhapur

.....प्रत्यर्थी / Respondent

Assessee by : Shri M.K. Kulkarni  
Revenue by : Shri M.G. Jasnani

सुनवाई की तारीख / Date of Hearing : 23-05-2022  
घोषणा की तारीख / Date of Pronouncement : 23-05-2022

**आदेश / ORDER**

**PER S.S. VISWANETHRA RAVI, JM :**

This appeal by the assessee against the order dated 27-12-2017 passed by the Commissioner of Income Tax (Appeals)-11, Pune [‘CIT(A)’] for assessment year 2008-09.

2. We note that this appeal was filed with a delay of 190 days. After hearing both the parties, 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 190 days are condoned.

3. 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).

4. 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).

5. Heard both the parties and perused the material available on record. We note 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 and at the same time, the assessee is directed to present himself before the ld. CIT(A) immediately on receipt of this order 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 23<sup>rd</sup> May, 2022.

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

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

पुणे / Pune; दिनांक / Dated : 23<sup>rd</sup> May, 2022.  
रवि

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-11, Pune
4. The Pr. CIT (Central), 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