

आयकर अपीलीय अधिकरण “ए” न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH, PUNE

BEFORE SHRI INTURI RAMA RAO, AM AND
SHRI PARTHA SARATHI CHAUDHURY, JM

आयकरअपीलसं. / ITA No.2719/PUN/2017

निर्धारण वर्ष / Assessment Year: 2011-12

Mrs. Neesha Vikram Jadhav, Flat No.11, Butte Patil Presige, 1170/27, Revenue Colony, Shivajinagar, Pune – 411005. PAN: AEBPJ 0734 R	Vs	The Deputy Commissioner of Income Tax, Circle-3, Pune.
Appellant/ Assessee		Respondent /Revenue

Assessee by	Shri Sunil Ganoo – AR
Revenue by	Shri S P Walimbe – DR
Date of hearing	23/05/2022
Date of pronouncement	26/05/2022

आदेश / ORDER

PER PARTHA SARATHI CHAUDHURY, JM:

This appeal preferred by the assessee emanates from the order of Id.Commissioner of Income Tax(Appeals)-3, Pune dated 30.08.2017 for the Assessment Year 2011-12. as per the grounds of appeal on record.

2. At the very outset, we find that in this case, the Id.CIT(A) has passed an *ex-parte* order. That at Para 5 of the Id.CIT(A)'s order, it is evident that several opportunities of hearing have been given to the assessee and on every appointed date, the assessee and her Id.Authorised Representative(Id.AR) of the assessee filed application for adjournment. The assessee was granted adjournment whenever requested. However, till finalisation of the order by the Id.CIT(A), neither the assessee nor her representative attended, nor filed any written submissions. Despite repeated opportunities, there has been no compliance from the assessee's side. That further evident the appeal was

finalised on the basis of documents that has been submitted by the assessee as part of the appeal memo i.e. Grounds of Appeal, Statement of Facts and the Assessment Order under section 143(3) of the Act.

3. Before us also, the ld.AR for the Assessee could not explain with specific and definite reasons why there were such non-compliance before the ld.CIT(A). His submission was that the ld.CIT(A) should have decided the case on merits since the assessment records were also within the same machinery i.e. with the AO and therefore, the ld.CIT(A) should have adjudicated the matter on entirety. We observe from the facts on record specially Para 5 and 5.1 of the order of the ld.CIT(A) that several opportunities were provided to the assessee to attend the hearing before the First Appellate Authority. The assessee has neither attended the proceedings, nor has filed written submission. The contention of the ld.AR of the assessee that the ld.CIT(A) should have adjudicated the case on merits is only subject to the materials available on the record before him i.e. Grounds of Appeal, Statement of Facts, Assessment Order and Appeal Memo attached in Form-35 filed before him. If the assessee does not appear before the Quasi-Judicial Authority, if he does not place his submission on record, in such scenario, the Quasi-Judicial Authority cannot be expected to adjudicate the matter on merits. The rights and liabilities of the parties still remains to be determined. The ld.CIT(A) has considered the assessment order, the statement of facts and the grounds of appeal, but since there was no appearance from the assessee despite several opportunities and neither written submissions were filed, the assessee's version in his defence has not been placed on record. We also

appreciate the fact that Income Tax Act is a Welfare Legislation which is absolutely separate in flesh and soul as compared to a Penal Legislation. Therefore, one final opportunity should be provided to the tax payer assessee. We are of the considered view, therefore, the order of the Id.CIT(A) be set-aside and the same be restored back to his file for re-adjudication as per law while complying with the principles of natural justice. At the same time, we direct the assessee to appear before the Id.CIT(A) with all relevant documents/evidence to represent her case on merits. We order accordingly.

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

Order pronounced in the open Court on 26th May, 2022.

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Sd/-
(PARTHA SARATHI CHAUDHURY)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 26th May, 2022/ SGR*

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

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

आदेशानुसार / BY ORDER,

// TRUE COPY //

Senior Private Secretary
आयकरअपीलीयअधिकरण, पुणे/ITAT, Pune.