

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "SMC", PUNE

BEFORE SHRI S. S. GODARA, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.686/PUN/2021
निर्धारण वर्ष / Assessment Year: 2017-18

Asha Mahila Bahat Gut, MIDC Chikalthana, Aurangabad-431001 PAN : AAALA1655M	Vs.	ITO, Ward-1(8), Aurangabad.
Appellant		Respondent

Assessee by : None
Revenue by : Shri Arvind Desai
Date of hearing : 25.05.2022
Date of pronouncement : 30.05.2022

आदेश / ORDER

PER S. S. GODARA, JM:

This assessee's appeal for assessment year 2017-18 arises against the CIT(A)-National Faceless Appeal Centre (NFAC), Delhi's order dated 12.10.2021 passed in case no. ITBA/NFAC/S/250/2021-22/1036341041(1) involving proceedings u/s 143(3) of the Income Tax Act, 1961; in short the Act.

Case called twice. None appears at assessee's behest. It is accordingly proceeded *ex-parte*.

2. Coming to the assessee's sole substantive grievance pleaded in the instant appeal, it emerges at the outset that both the learned lower authorities have invoked section 40A(3) disallowance of

Rs.3,96,810/- on the ground that it failed to justify the cash payment made for purchasing wheat from various farmers.

3. Mr. Desai vehemently supported the impugned disallowance. He invited my attention to the learned lower authorities' detailed discussion(s) that the assessee had failed in proving the compelling circumstances under Rule 6DD of the Income Tax Rules. I find no merit in the Revenue stand as there is no indication that the impugned payments had been made "to a person in a day" as per the clinching statutory expression employed in section 40A(3) of the Act. I therefore adopt stricter interpretation in light of Commissioner of Customs vs. Dilip Kumar & Company (2018) 9 SCC 1 (SC)(FB) to delete the impugned disallowance for this precise reason alone as the learned lower authorities have not referred to any specific violation in their respective orders. The assessee succeeds in its sole substantive grievance therefore.

4. This assessee's appeal is allowed in above terms.

Order pronounced on this 30th day of May, 2022.

Sd/-
(S. S. GODARA)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 30th May, 2022.

Sujeet (DOC)

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

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

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.