

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

BEFORE SHRI R.S. SYAL, VICE PRESIDENT

आयकर अपील सं. / ITA Nos.1335 & 1336/PUN/2019

निर्धारण वर्ष / Assessment Years : 2011-12 & 2012-13

Bhupendra K. Pathak, B-103, Supreme Green Wood, Hindustan properties, NIBM Road, Kondhwa, Pune 411 018, Maharashtra PAN : AJUPP1585E	Vs.	ITO, Ward-13(3), Pune
(Appellant)		(Respondent)

Appellant by

Shri K. Srinivasan

Respondent by

Shri Piyush Kumar Singh Yadav

Date of hearing

27-06-2022

Date of pronouncement

28-06-2022

आदेश / ORDER

PER R.S. SYAL, VP :

These two appeals by the assessee relating to the assessment years 2011-12 & 2012-13 arise out of a common order passed by the Id. CIT(A) on 28-06-2019. Since both the appeals are based on some common grounds, I am, therefore, proceeding to dispose them off by this consolidated order for the sake of convenience.

2. Briefly stated, the facts of the case for the A.Y. 2011-12 are that the assessee filed its original return u/s.139(1) declaring

total income of Rs.5,72,500/-. Thereafter, a notice u/s.148 was issued on 12-03-2014. The assessee furnished return in response to such notice on 24-02-2015 declaring total income at Rs.5,72,500/-. The AO completed the assessment determining total income at Rs.20,56,975/-. In the first appeal, the assessee challenged, *inter alia*, that in the absence of any notice having been issued u/s.143(2), the assessment framed by the AO u/s.143(3) r.w.s.147 was vitiated. The ld. CIT(A) did not accept this contention by invoking section 292BB of the Act and partly allowed the appeal of the assessee on merits.

3. The facts and circumstances; and also the decision of the AO and that of the ld. CIT(A) on this issue are similar to those of the immediately preceding year. Aggrieved thereby, the assessee has approached the Tribunal for the two assessment years under consideration.

4. I have heard both the sides and gone through the relevant material on record. The assessee filed a batch of three appeals consisting of the A.Ys. 2010-11 to 2012-13 raising similar issues and grounds. In fact, the ld. CIT(A) also passed a common order for such years. The ground challenging the non-issuance of notice u/s 143(2) and the framing of the

consequential assessment was taken up by the assessee for the A.Y. 2010-11 also. Both the sides made submissions on this issue w.r.t. the factual panorama of the A.Y. 2010-11 and adopted those arguments for the two years under consideration. A separate order has been passed by the Tribunal for the said immediately preceding year in which the contention of the assessee on this score has been accepted and the assessment has been quashed for non-issuing of notice u/s 143(2) of the Act. The other view point of the Id. CIT(A), invoking section 292BB, has also been jettisoned in such order. As the facts and circumstances for the two years under consideration are admittedly *mutatis mutandis* similar, following the same view, I set-aside the assessment orders and the impugned orders for the years under consideration as well.

5. In the result, both the appeals are allowed.

Order pronounced in the Open Court on 28th June, 2022.

Sd/-
(R.S.SYAL)
उपाध्यक्ष/ VICE PRESIDENT

पुणे Pune; दिनांक Dated : 28th June, 2022
Satish

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. आयकर आयुक्त(अपील) /
The CIT (Appeals)-5, Pune
4. The Pr. CIT-5, Pune
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "SMC"
/ DR 'SMC', ITAT, Pune;
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,**// True Copy //**Senior Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune

		Date	
1.	Draft dictated on	27-06-2022	Sr.PS
2.	Draft placed before author	28-06-2022	Sr.PS
3.	Draft proposed & placed before the second member	--	JM
4.	Draft discussed/approved by Second Member.	--	JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

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