

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

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER
AND
SHRI S. S. VISWANETHRA RAVI, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.960/PUN/2018
निर्धारण वर्ष / Assessment Year: 2010-11

Kiran Baban Khandve, Master Chawl, 277, Lohagaon, Dist. Pune- 411047. PAN : ARQPK7240R	Vs.	ITO, Ward-12(3), Pune.
Appellant		Respondent

Assessee by : Shri Rushabh Shah
Revenue by : Shri Arvind Desai

Date of hearing : 19.07.2022
Date of pronouncement : 21.07.2022

आदेश / ORDER

PER INTURI RAMA RAO, AM:

This is an appeal filed by the assessee directed against the order of Id. Commissioner of Income Tax (Appeals)-5, Pune [‘the CIT(A)’] dated 15.01.2018 for the assessment year 2010-11.

2. Briefly, the facts of the case are that the appellant is an individual engaged in the business of supplying milk. The return of income for the assessment year 2010-11 was filed on 25.02.2011 declaring total income of Rs.10,15,200/-. Against the said return of

income, the assessment was completed by the Assessing Officer vide order dated 17.12.2012 passed u/s 143(3) of the Income Tax Act, 1961 ('the Act'). Subsequently, on receipt of information that the appellant had sold land to one Mr. Jivaram Choudhary and received consideration of Rs.68,32,775/- in cash and Rs.20,00,000/- through cheque, the Assessing Officer issued a notice u/s 148 on 06.04.2015. Subsequently, the assessment was completed by the Income Tax Officer, Ward-12(3), Pune ('the Assessing Officer') vide order dated 13.12.2016 passed u/s 143(3) r.w.s. 147 at total income of Rs.59,72,980/- after making addition under the head "Income from other sources" and "Capital gains".

3. Being aggrieved by the order of assessment, an appeal was preferred before the ld. CIT(A), who vide impugned order dismissed the appeal of the assessee.

4. Being aggrieved, the appellant is in appeal before us in the present appeal.

5. It is contended that the ld. CIT(A) without giving reasonable opportunity of being heard had dismissed the appeal. The ld. AR submitted that the notice of hearing issued by the ld. CIT(A) was not served upon the assessee. The appellant filed an affidavit

stating that as per order of the ld. CIT(A), the notice of hearing of appeal was sent to the appellant on 08th November, 2017 fixing the appeal for hearing for 05th December, 2017, however, the appellant never received the said notice and accordingly, he could not get an opportunity to present his case before the ld. CIT(A), and the ld. CIT(A) passed the impugned order *ex-parte*. He further mentioned that the notice was returned back with a remark 'Insufficient Address'. Thus, it is prayed that the appeal may be restored to the file of the ld. CIT(A) for fresh adjudication in accordance with law.

6. On the other hand, ld. CIT-DR has no serious objection to remand the matter to the file of the ld. CIT(A) for fresh adjudication.

7. We heard the rival submissions and perused the material on record. We are of the considered opinion that the interest of justice would be met if the matter is remanded to the file of the ld. CIT(A) with a direction the issue in the present appeal be adjudicated on merits after affording reasonable opportunity of being heard to the appellant-assessee. Thus, the issue raised by the assessee through various grounds of appeal stands partly allowed for statistical purposes.

8. In the result, the appeal filed by the assessee stands partly allowed for statistical purposes.

Order pronounced on this 21st day of July, 2022.

Sd/-
(S. S. VISWANETHRA RAVI)
JUDICIAL MEMBER

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 21st July, 2022.

Sujeet

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

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

आदेशानुसार / BY ORDER,

// True Copy //

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