

आयकर अपीलीय अधिकरण “एक सदस्य मामला” न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH, PUNE

श्री एस.एस. विश्वनेत्र रवि, न्यायिक सदस्य के समक्ष ।
BEFORE SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.365/PUN/2022
निर्धारण वर्ष / Assessment Year : 2012-13

Shri Vishwas Bapurao More,
409, Ranmala, Niphad Road,
A/P Pimpalgaon B, Taluka-Niphad,
Distt.-Nashik - 422209

PAN : ATJPM6658G

.....अपीलार्थी / Appellant

बनाम / V/s.

ACIT (OSD), Ward-1(4),
Nashik

.....प्रत्यर्थी / Respondent

Assessee by : Shri Sanket Joshi

Revenue by : Shri M.G. Jasnani

सुनवाई की तारीख / Date of Hearing : 23-08-2022

घोषणा की तारीख / Date of Pronouncement : 24-08-2022

आदेश / ORDER

PER S.S. VISWANETHRA RAVI, JM :

This appeal by the assessee against the order dated 22-03-2022 passed by the National Faceless Appeal Centre, Delhi (‘NFAC’) for assessment year 2012-13.

2. The ld. AR submits that the issue raised in ground No. 5 may be taken as preliminary issue and argued that there was no opportunity for the assessee in the assessment proceedings as the assessee lives in remote

village and no notices were served on him. He referred to impugned order and argued that no notices even from NFAC were also received by the assessee. He submits that without prejudice to ground Nos. 1 to 4 the assessee may be given one more opportunity to prosecute the issue before the AO and the assessee is ready to produce all the details before the AO. The ld. DR reported no objection in remanding the issue to the file of AO.

3. Having heard the submissions of Ld. AR and Ld. DR, I, note that the AO completed the assessment to his best judgment u/s. 144 r.w.s. 147 of the Act and it is evident from page No. 2 at para No. 2 of the assessment order that the AO clearly noted that he is proceeding to complete the assessment to his best judgment for non-compliance of the assessee. I note that the AO added an amount of Rs.45,00,000/- on account of unexplained investment u/s. 69 of the Act for not furnishing any information substantiating the transaction in respect of purchase of immovable property. Further, I note that at page No. 5 of the impugned order that the CIT(A) confirmed the order of AO in the absence of any explanation and evidences in support of grounds raised by the assessee, which clearly establishes that there was no opportunity to the assessee before both the authorities below. Therefore, I am of the opinion that the assistance of assessee is required by filing relevant evidences in support of his claim and admittedly there was no such evidences filed before both the authorities below. Now, taking into consideration the undertaking of Ld. AR that the assessee is ready to file all the evidences in respect of his claim, I deem it proper to remand the matter to the file of AO for his fresh consideration. The assessee is liberty to file evidences, if any, in support of his claim. Thus, the ground No. 5 raised by the assessee is allowed for statistical purpose.

4. In view of my decision in ground No. 5 in remanding the matter to the file of AO for his fresh consideration, the other grounds i.e. ground Nos. 1 to 4 raised by the assessee becomes infructuous.

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

Order pronounced in the open court on 24th August, 2022.

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

पुणे / Pune; दिनांक / Dated : 24th August, 2022.
रवि

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 CIT concerned.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "एक सदस्य मामला" बेंच, पुणे / DR, ITAT, "SMC" 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