



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

**BEFORE SHRI PARTHA SARATHI CHAUDHURY, JM
AND DR. DIPAK P. RIPOTE, AM**

ITA No. 1490/PUN/2018 : Assessment Year : 2006-07

Mallikarjun B. Patil
Shop No. 115, 116, SFS complex
Jalna Road, Aurangabad – 431 001
PAN: ABFPP 5818F :Appellant

Vs.

The Asstt. Central Circle, Aurngabad : Respondent

Appellant by : Shri K. Shrinivasan (through virtual)

Respondent by : Shri Ramnath P. Murkude

Date of Hearing : 30-08-2022

Date of Pronouncement : 01-09-2022

ORDER

PER PARTHA SARATHI CHAUDHURY, JM :

This appeal preferred by the assessee emanates from the order of the Id. CIT(A)-12, Pune dated 08-05-2018 for A.Y. 2006-07 as per the grounds of appeal on record.

2. At the outset, the Id. A.R submitted that this is an ex parte order by the Id. CIT(A) where the rights and liabilities of the party are yet to be determined on merits. He further contended that the Id. CIT(A) has given only one opportunity of hearing vide notice dated 08-05-2018 and thereby has passed the order dismissing the appeal of the assessee based on Form No. 35 and its annexures i.e. Statement of facts and grounds of appeal. In such scenario the Id. A.R prayed for one final opportunity to present their case on merits before the Id. CIT(A) with relevant documents/evidences in the interest of justice. The Id. D.R did not raise any objection if the matter was remanded to the file of the Id. CIT(A) for adjudication as per law.



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3. Having heard the parties, we find that at para 3.1 of the Id. CIT(A)'s order the case was fixed for hearing on 08-05-2018. That, this was the only opportunity provided to the assessee. Thereafter, the Id. CIT(A) observed that the order of the A.O is speaking order with cogent reasons and the additions were made on sound legal grounds. With these observations, the Id. CIT(A) dismissed the appeal of the assessee. In our considered view the Id. CIT(A) has not provided sufficient opportunity to the assessee before dismissing his appeal. Neither the Id. CIT(A) has discussed the issue on merits. He has simply supported the assessment order without giving any specific finding. Therefore, it can safely be stated that he has not applied his mind while dismissing the appeal of the assessee. In this factual scenario the Id. A.R has prayed for one final opportunity to represent their case on merits before the Id. CIT(A) to which the Id. D.R has also not objected to. The spirit of income-tax legislation being a welfare legislation, the rights of the assessee-tax-payer needs to be protected in the given facts and circumstances. Hence in the interest of justice, we set aside the order of the Id. CIT(A) and remand the matter back to his file for re-adjudication as per law following principles of natural justice and also at the same time, we direct the assessee to be present before him with all relevant documents/evidences for proper representation of their case. With these observations, the appeal of the assessee is allowed for statistical purposes.

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

Order pronounced in the open Court on this 01st September 2022.

Sd/-
(DR. DIPAK P. RIPOTE)
ACCOUNTANT MEMBER

sd/-
(PARTHA SARATHI CHAUDHURY)
JUDICIAL MEMBER

Pune; Dated, this 01st day of September 2022
Ankam



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Copy of the Order forwarded to :

1. The Appellant.
2. The Respondent.
3. The Pr. CIT- Central, Nagpur.
4. The CIT(A)-12 Pune
5. The D.R. ITAT 'A' Bench Pune.
6. Guard File

BY ORDER,

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Sr. Private Secretary
ITAT, Pune



		Date	
1	Draft dictated on	30-08-2022	Sr.PS
2	Draft placed before author	01-09-2022	Sr.PS
3	Draft proposed and placed before the second Member		JM/AM
4	Draft discussed/approved by second Member		AM/JM
5	Approved draft comes to the Sr. PS/PS		Sr.PS/PS
6	Kept for pronouncement on	01-09-2022	Sr.PS/PS
7	Date of uploading of order	01-09-2022	Sr.PS/PS
8	File sent to Bench Clerk	<u>01-09-2022</u>	Sr.PS/PS
9	Date on which the file goes to the Head Clerk		
10	Date on which file goes to the A.R		
11	Date of dispatch of order		