

आयकर अपीलीय अधिकरण "ए" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, PUNE

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

आयकर अपील सं. / ITA No.720/PUN/2021
निर्धारण वर्ष / Assessment Year : 2016-17

Mr. Anil Jagannath Kedar,
At Post – Wasud, Sangola,
Dist. – Solapur-413307

PAN : ASVPK0584A

.....अपीलार्थी / Appellant

बनाम / V/s.

Pr. CIT – 4,
Pune

.....प्रत्यर्थी / Respondent

Assessee by : S/Shri Piyush Bafna & Akash Parakh
Revenue by : Shri Keyur Patel

सुनवाई की तारीख / Date of Hearing : 14-11-2022
घोषणा की तारीख / Date of Pronouncement : 21-11-2022

आदेश / ORDER

PER S.S. VISWANETHRA RAVI, JM :

This appeal by the assessee against the order dated 31-03-2021 passed by the Principal Commissioner of Income Tax-4, Pune ("PCIT") for assessment year 2016-17.

2. We find that this appeal was filed with a delay of 213 days. Upon hearing both the parties, we find that the delay of 213 days is saved by the decision of Hon'ble Supreme Court passed during National Lockdown imposed on account of pandemic Covid-19. Therefore, the delay of 213 days is condoned.

3. The assessee raised three grounds of appeal amongst which the only issue emanates for our consideration is as to whether the PCIT is justified in holding the assessment order dated 24-12-2018 passed u/s. 143(3) of the Act is erroneous and prejudicial to the interest of revenue ex-parte of the assessee.

4. We note that the PCIT on an examination of assessment record pertaining to A.Y. 2016-17, found the total receipts during F.Y. 2015-16 were at Rs.6,31,25,161/- which is inclusive of cash deposit of Rs.1,12,02,580/-. According to the PCT, the assessee cannot be treated as Kacha Adatia and books of accounts should have been audited. Further, he also observed that there was no supportive evidence proving 5 to 6% of commission received by the assessee. Basing on such finding, the PCIT initiated proposal to revise the assessment order passed u/s. 143(3) of the Act by giving show cause notice dated 10-02-2021. The said show cause notice was issued through ITBA revision portal but was bounced which is evident from para 3 of the impugned order. There was no representation on behalf of the assessee in terms of the proposal to revise the assessment order already concluded u/s. 143(3) of the Act. Further, it is established that in the absence of any clarification/submission on behalf of the assessee, the PCIT proceeded to pass ex-parte order revising the assessment order passed u/s. 143(3) of the Act with a direction to AO that the assessment order should be framed as per the provisions of law considering proper facts and necessary verification in the light of observations made in paras 4 and 5 of the impugned order. Therefore, it is clear from the record there was no opportunity for the assessee to contest the proposals stated to have been raised by the PCIT in 263 proceedings. Thus, we deem it proper to remand the issue to the file of PCIT for his fresh consideration. The PCIT shall pass order by affording reasonable

opportunity of hearing to the assessee, in accordance with law. The assessee is liberty to file evidences, if any, in support of his claim. Thus, the grounds raised by the assessee are allowed for statistical purpose.

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

Order pronounced in the open court on 21st November, 2022.

Sd/-
(Inturi Rama Rao)
ACCOUNTANT MEMBER

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

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

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

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

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune