

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

BEFORE SHRI R.S. SYAL, VICE PRESIDENT  
AND  
SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.135/PUN/2021  
निर्धारण वर्ष / Assessment Year : 2016-17

Usha Motiram Darade,  
Ushakal, Vidyanagar,  
East, Barshi Road,  
Beed - 431122

PAN : ABEPD1727A

.....अपीलार्थी / Appellant

**बनाम / V/s.**

Pr. Commissioner of Income Tax-1,  
Nashik

.....प्रत्यर्थी / Respondent

Assessee by : Shri M.K. Kulkarni  
Revenue by : Shri P.R. Mane

सुनवाई की तारीख / Date of Hearing : 06-12-2022  
घोषणा की तारीख / Date of Pronouncement : 08-12-2022

**आदेश / ORDER**

**PER S.S. VISWANETHRA RAVI, JM :**

This appeal by the assessee against the order dated 19-03-2021 passed by the Pr. Commissioner of Income Tax-1, Nashik ("PCIT") for assessment year 2016-17.

2. The assessee raised three grounds of appeal amongst which the only issue emanates for our consideration is as to whether the PCIT justified in holding the assessment order dated 24-12-2018 is erroneous and prejudicial to the interest of revenue ex-parte of the assessee.

3. According to the PCIT, the assessee's case was selected for scrutiny under CASS to verify whether the cash deposit are made from disclosed sources and the AO without making proper enquiries and verifications in that regard completed the assessment. The PCIT specifically mentioned in para 2 of the impugned order that there was negative cash in view of cash withdrawal on 17-06-2015, 02-09-2015 and 14-12-2015 shown by the assessee in cash flow statement and show caused the assessee calling for submission through e-proceedings. We note that there was no appearance by the assessee nor filed any submission in response to the show caused notice dated 09-02-2021. The ld. AR, Shri M.K. Kulkarni submits that the assessee submitted his submission on 10-03-2021 and the PCIT without considering the same held the assessment order passed u/s. 143(3) of the act is erroneous and prejudicial to the interest of revenue, is not justified. On perusal of paras 4 and 5 of the impugned order it is evident that the PCIT proceeded in the absence of assessee's submissions and finally directed the AO to frame the assessment order afresh as per the provisions of law considering proper facts and submissions of the assessee. The ld. AR now vehemently submits that the assessee is ready to furnish all the details in support of his claim before the PCIT and one more opportunity may be afforded to the assessee to contest the show cause notice issued by the PCIT. The ld. DR, Shri P.R. Mane submits that the impugned order clearly shows non-compliance by the assessee and no need to affording another opportunity to the assessee before the PCIT, but however, fairly conceded that there was no reference to submissions filed by the assessee on 10-03-2021 in the impugned order. Taking into consideration the facts and circumstances of the case and submissions of ld. AR and ld. DR, we deem it proper to remand the matter to the file of PCIT for its fresh verification in terms of submissions of the assessee. The assessee is liberty

to file evidences, if any, in support of its claim. Thus, the grounds raised by the assessee are allowed for statistical purpose.

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

Order pronounced in the open court on 08<sup>th</sup> December, 2022.

Sd/-  
(R.S. Syal)  
VICE PRESIDENT

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

पुणे / Pune; दिनांक / Dated : 08<sup>th</sup> December, 2022.  
रवि

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT-1, Nashik
4. The Addl. CIT, Range-1, Aurangabad
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच,  
पुणे / DR, ITAT, "B" 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