

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

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

आयकर अपील सं. / ITA. No.262/PUN/2023

Assessment Year : 2010-11

Dattatraya Pandurang Shinde, B-7, Kapil Asamant Society, Pashan, Pune 411 021 Maharashtra PAN : ACHPS9939B	Vs.	ITO, Ward-5(5), Pune
Appellant		Respondent

Assessee by Shri Pramod S. Shingte
Revenue by Shri Ramnath P. Murkunde

Date of hearing 02-05-2023
Date of pronouncement 03-05-2023

आदेश / ORDER

PER R.S. SYAL, VP :

This appeal by the assessee arises out of the *ex parte* order dated 21-03-2022 passed by the CIT(A) in National Faceless Appeal Centre, Delhi u/s.250 of the Income-tax Act, 1961 (hereinafter also called 'the Act') in relation to the assessment year 2010-11.

2. The appeal is time barred by 292 days. The assessee has filed an affidavit explaining the reasons for the delay. We are

satisfied with the reasons. The delay is condoned and the appeal is admitted for disposal on merits.

3. We have heard the rival submissions and gone through the relevant material on record. It is seen that the assessment order in this case was passed u/s.143(3) r.w.s.147 of the Act assessing total income at Rs.59,33,078/- as against the returned income at Rs.21,71,020/-. When the matter was carried before the first appellate authority, the Id. CIT(A), at para 10 of the impugned order, noted that various notices were issued to the appellant which remained unresponded. He, therefore decided the appeal based on the documents that were submitted by the assessee as part of appeal memo, which resulted into passing of the *ex-parte* order *qua* the assessee dismissing the appeal. The Id. AR submitted that adequate opportunity of hearing was also not given by the AO inasmuch as the assessee could attend the assessment proceedings only for once and thereafter, the assessment order came to be passed without affording further opportunity of hearing to explain the case. It was submitted that, given an opportunity, the assessee is now in a position to substantiate his

claims with relevant evidence. Considering the entirety of facts and circumstances, we are of the opinion that it would be just and fair if the impugned order is set-aside and the matter is remitted to the file of the AO. We order accordingly and direct him to frame the assessment afresh as per law after allowing a reasonable opportunity of hearing to the assessee. Needless to say, the assessee will be at liberty to lead any fresh evidence in support of his point of view in the fresh assessment.

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

Order pronounced in the Open Court on 03rd May, 2023.

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

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

पुणे Pune; दिनांक Dated : 03rd May, 2023
सतीश

आदेश की प्रतिलिपि □ ग्रेषित/Copy of the Order is forwarded to:

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent
3. The Pr. CIT concerned
4. DR, ITAT, 'A' Bench, Pune
5. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

// True Copy //

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

		Date	
1.	Draft dictated on	02-05-2023	Sr.PS
2.	Draft placed before author	03-05-2023	Sr.PS
3.	Draft proposed & placed before the second member		JM
4.	Draft discussed/approved by Second Member.		JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

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