



॥ आयकर अपीलीय न्यायाधिकरण, पुणे "ए" न्यायपीठ, पुणे में ॥



IN THE INCOME TAX APPELLATE TRIBUNAL, PUNE "A" BENCH, PUNE
BEFORE HON'BLE SHRI S. S. VISWANETHRA RAVI, JUDICIAL MEMBER
AND

SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No. 035/PUN/2023

निर्धारण वर्ष / Assessment Year : 2015-16

Gajraj Construction
201, Siddhivinayak Keshar,
Somwar Peth, Pune-411030
PAN:AAHFG2926Q

..... अपीलार्थी / Appellant

बनाम / V/s.

Asstt. Commissioner of Income Tax
Circle-6, Pune.

..... प्रत्यर्थी / Respondent

द्वारा / Appearances

Assessee by : Shri Vardhaman L Jain

Revenue by : Shri Ramnath Murkunde

सुनवाई की तारीख / Date of conclusive Hearing : 24/05/2023

घोषणा की तारीख / Date of Pronouncement : 24/05/2023

आदेश / ORDER

PER G. D. PADMAHSHALI, AM;

By the present appeal the assessee challenges the order of National Faceless Appeal Centre [for short "NFAC"] dt. 06/12/2022 passed u/s 250 of the Income-tax Act, 1961 [for short "the Act"] for the assessment year 2015-16 [for short "AY"]



2. Concisely stated facts borne out of the case records are;

2.1 The appellant assessee is a partnership firm engaged in the business of builders and developers, had e-filed its return of income for the year under consideration declaring total income of ₹10,89,78,560/-.

2.2 In the event of appellant's failure to establish creditworthiness and genuineness of unsecured loan received from two parties, the Ld. ACIT Circle-6, Pune by an order dt. 30/12/2017 assessed the total income at ₹12,41,48,960/- u/s 143(3) of the Act by bringing to tax such unsecured loan of ₹1,51,70,400/- u/s 68 of the Act.

2.3 Aggrieved assessee tried its luck in an appeal before first appellate authority. However it remained futile. For the reason the assessee firm instituted the present appeal with the following grounds of appeal;



“1. The learned CIT(A) erred in law and on facts in failing to give an adequate opportunity of hearing before disposing off the appeal.

2. The learned CIT(A) erred in law and on facts in confirming the addition of Rs. 1,51,70,400/- u/s 68 of the Income Tax Act, 1961.

3. The appellant craves leave to add to or alter the grounds of appeal, if deemed necessary.”

3. During the course of physical hearing, the Ld. AR at the outset adverting to para 4.3.3 of the impugned order contended that, during the first appellate proceedings the appellant firm through written representation attempted to establish creditworthiness & genuineness of unsecured loan brought to tax u/s 68 of the Act. Albeit said submissions did not prove creditworthiness and genuineness of transaction to fullest satisfaction, the Ld. FAA without further notice to the assessee has confirmed said addition, which is a clear case of violation of principle of natural justice, thus a fit case for remand to Ld. CIT(A) for re-consideration.



4. After hearing to rival contentions of both the parties; we find substance in the argument of the Ld. AR that, the Ld. NFAC on not being persuaded by initial submissions of the appellant in establishing the creditworthiness & genuineness of unsecured loan, has without further notice culminated the proceedings in violation of principle of natural justice. For the reason, without commenting on merits of the case, we remand the matter back to Ld. CIT(A) for *de-nova* adjudication after according a reasonable opportunity to the appellant assessee.

5. Resultantly, the appeal is ALLOWED FOR STATISTICAL PURPOSE in above terms.

In terms of rule 34 of ITAT Rules, the order pronounced in the open court on this Tuesday 24th day of May, 2023.

-S/d-

S. S. VISWANETHRA RAVI
JUDICIAL MEMBER

पुणे / PUNE; दिनांक / Dated : 25th day of May, 2023.

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

1. The Appellant.

2. The Respondent.

3. The Pr. CIT Circle-6,

4. The NFAC, New Delhi.

5. The DR, ITAT, "A" Bench, Pune

6. गार्डफ़ाइल / Guard File.

-S/d-

G. D. PADMAHSHALI
ACCOUNTANT MEMBER

आदेशानुसार / By Order,

वरिष्ठ निजी सचिव / Sr. Private Secretary

आयकर अपीलिय न्यायाधिकरण, पुणे / ITAT, Pune.