

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

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

आयकर अपील सं. / ITA No.129/PUN/2023
निर्धारण वर्ष / Assessment Year : 2016-17

Mrs. Rajashree Baburao Borkar,
M/s. Shevantai Petroleum,
At and Post Narayangaon,
Tal.-Junnar, Dist.-Pune – 410504,
Maharashtra

PAN : AZMPB4222C

.....अपीलार्थी / Appellant

बनाम / V/s.

The Pr. Commissioner of Income Tax-3,
Pune

.....प्रत्यर्थी / Respondent

Assessee by : Shri Abhay Avachat
Revenue by : Shri Sardar Singh Meena

सुनवाई की तारीख / Date of Hearing : 29-05-2023

घोषणा की तारीख / Date of Pronouncement : 29-05-2023

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-3, Pune ("Pr. CIT") for assessment year 2016-17 u/s. 263 of the Act.

2. We find that this appeal was filed with a delay of 613 days. The assessee filed notarized affidavit dated 30-01-2023 explaining the reasons

for delay. On perusal of the same and hearing both the parties, we find that the reasons stated by the assessee are bonafide which really prevented the assessee to file the present appeal in time. Therefore, the delay of 613 days is condoned.

3. The assessee raised five grounds of appeal amongst which the only issue emanates for our consideration is as to whether the Pr. CIT justified in holding the assessment order dated 21-12-2018 passed u/s. 143(3) of the Act ex-parte of the assessee.

4. At the outset, we note that the Pr. CIT initiated 263 proceedings on an examination of the above said assessment order and found the AO failed to make necessary enquiries and verification with regard to cash in hand and cash deposits, excess cash deposits in loan account. According to the Pr. CIT that the assessee was asked to furnish submissions through ITBA or on official e-mail and the assessee did not reply to the notice which is evident from para 3 of the impugned order. It is also established that the Pr. CIT proceeded to 263 proceedings ex-parte of the assessee and held the assessment order dated 21-12-2018 is erroneous and prejudicial to the interest of Revenue based on the material available on record which is also evident from para 3 of the impugned order. We note that admittedly, there was no opportunity for the assessee to prosecute the issues raised by the Pr. CIT in the revision proceedings and the ld. AR before us prayed for an opportunity for the assessee to substantiate its claim before the Pr. CIT.

5. The ld. DR fairly conceded that there was no occasion to substantiate the claim of the assessee before 263 proceedings. Taking into facts and circumstances of the case and in the interest of justice, we deem it proper to remand the issue to the file of Pr. CIT for its fresh

consideration. The assessee is liberty to file evidences, if any, in support of its claim. Thus, the order of Pr. CIT is set aside and the grounds raised by the assessee are allowed for statistical purpose.

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

Order pronounced in the open court on 29th May, 2023.

Sd/-
(Inturi Rama Rao)
ACCOUNTANT MEMBER

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

पुणे / Pune; दिनांक / Dated : 29th May, 2023.
रवि

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

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