



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



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

SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.14/PUN/2021
निर्धारण वर्ष / Assessment Year : 2013-2014

Smt Prabhavati Balasaheb Kawade
L/H of Late Balasheb Bapusaheb Kawade
Shah Khandelwal Jain & Associates,
Level-3, Riverside Business Bay,
Wellesley Rd., Pune-411001
PAN: DLUPK3690C

..... अपीलार्थी / Appellant

बनाम / V/s.

Income Tax Officer
Ward-7(1), Pune.

..... प्रत्यर्थी / Respondent

द्वारा / Appearances

Assessee by : Shri Neelesh Khandelwal

Revenue by : Shri M. G. Jasnani

सुनवाई की तारीख / Date of conclusive Hearing : 08/06/2023

घोषणा की तारीख / Date of Pronouncement : 08/06/2023

आदेश / ORDER

PER G. D. PADMAHSHALI, AM;

By the present appeal the legal heir of the deceased assessee challenged the order of Commissioner of Income Tax (Appeals) Pune-5, Pune [for short "CIT(A)"] dt. 10/10/2019 passed u/s 250 of the Income-tax Act, 1961 [for short "the Act"] upholding the order of



assessment dt. 30/12/2016 passed u/s 143(3) r.w.s. 147 by the Income Tax Officer Ward-7(1), Pune [for short "AO"] for the assessment year [for short "AY"] 2013-14.

2. In the course of physical hearing, the learned representative for the assessee [for short "AR"] without adverting to facts & merits of the case, at the outset has candidly invited our attention to the impugned order and submitted that, the impugned first appellate order was communicated to the assessee online through the web portal does neither bear the signature of the Ld. CIT(A) nor the Document Identification Number [for short 'DIN'] in terms of CBDT Circular 19/2019 dt. 14/08/2019. The Ld. AR prayed that although in the absence of valid order from the first appellate authority the present appeal merits dismissal, however upon the receipt of valid order from the office of the Ld. CIT(A) the assessee may be permitted to file fresh appeal and



delay in instituting the appeal (if any) be computed with reference to service of valid order and not with reference to present impugned order assailed against. The learned representative for the department Shri M. G. Jasnani solidified the submission of the Ld. AR and contended that, in the absence of valid cause of action the present appeal deserves to be dismissed as infructuous.

3. After hearing to rival contentions of both the parties; and subject to the provisions of rule 18 of Income Tax Appellate Tribunal Rules, 1963 [for short "ITAT-Rules"] perused the material placed on record, and duly considered the facts of the case in the light of settled legal position which are forewarned to parties present.

4. While vouching the effect of non-generation *vis-à-vis* non-quoting of DIN, we note that, the Hon'ble Delhi High Court while dealing with similar issue in '*CIT Vs Brandix Mauritius Holdings Ltd.*' (163/2023 dt.



20/03/2023), has held that the communication in relation to assessments, appeals, orders etc., which finds mention in paragraph 2 of the 2019 circular, albeit without DIN, can have no standing in law, having regard to the provisions of paragraph 4 of the 2019 circular. It is further observed by the Hon'ble High Court that in view of the decision of Hon'ble Supreme Court in the case of 'K.P. Varghese Vs ITO, Ernakulum (1981) 4 SCC 173 and in the case of 'Back Office IT Solutions Pvt. Ltd. Vs UOI (2021) SCC online Del 2742, the circulars issued by the CBDT binds the Revenue in their administration or implementation, and such circulars cannot be side-stepped causing prejudice to the assessee by bringing to naught the object for which such circulars are issued.

5. In the light of aforestated legal position, we in the extant appeal note that, the impugned order does neither bears the signature of first appellate authority nor the mandatory DIN in the body of the



order. Thus, admittedly the impugned order was communicated in violation of Para-2 of CBDT Circular (supra). Since the communication of impugned first appellate order suffered from compliance has rendered itself invalid as if never been issued, therefore gives rise to no cause for action to either parties. In these circumstances, in our considered view, the impugned order is to be treated as never been issued therefore ceases to have any effect in the eyes of law, therefore no appeal can lie thereagainst.

6. In result, the appeal stands **DISMISSED as infructuous.**

In terms of rule 34 of ITAT Rules, the order is pronounced in the open court on this Thursday 08th day of June, 2023.

-S/d-

S. S. VISWANETHRA RAVI
JUDICIAL MEMBER

पुणे / PUNE ; दिनांक / Dated : 08th day of June, 2023.

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

1. अपीलार्थी / The Appellant.
4. The CIT(A)-5, Pune

2. प्रत्यर्थी / The Respondent.
5. DR, ITAT, Bench 'B', Pune

3. The Pr. CIT-1, Pune (MH-India)
6. गार्ड फ़ाइल / Guard File.

अदेशानुसार / By Order,
वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय न्यायाधिकरण, पुणे / ITAT, Pune.

-S/d-

G. D. PADMAHSHALI
ACCOUNTANT MEMBER