

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

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

आयकर अपील सं. / ITA No.161/PUN/2023
निर्धारण वर्ष / Assessment Year : 2014-15

Dy. Commissioner of Income Tax,
Circle – 2, Pune

.....अपीलार्थी / Appellant

बनाम / V/s.

M/s. BU Bhandari Tempo (Dept),
A-3, Abhimanshree Society,
Pashan Road, Pune – 411008

PAN : AABFB2262N

.....प्रत्यर्थी / Respondent

Assessee by : Dr. Vardhaman L. Jain
Revenue by : Shri Ramnath P. Murkude

सुनवाई की तारीख / Date of Hearing : 20-06-2023

घोषणा की तारीख / Date of Pronouncement : 21-06-2023

आदेश / ORDER

PER S.S. VISWANETHRA RAVI, JM :

This appeal by the Revenue against the order dated 09-01-2023 passed by the National Faceless Appeal Centre ("NFAC"), Delhi for assessment year 2014-15.

2. The Revenue raised two grounds of appeal amongst which the only issue emanates for our consideration is as to whether the CIT(A), NFAC, Delhi justified in deleting the addition on account of disallowance of expenditure in the facts and circumstances of the case.

3. We note that the assessee is a partnership firm, filed return of income declaring a total income at Rs.Nil. The AO found expenditure claimed under the head of business and profession and requested the assessee to explain the nature of business activity, purpose of loan received from Janta Sahkari Bank. In explanation, the assessee submitted that “present business has been seized and the partners are on the lookout for a new dealership in automobiles”. In response to the second query, the assessee submitted that “loan from Janta Sahkari Bank is for the purpose of business”. The AO did not accept the reply of the assessee and treating there was no business activity for the assessee for the last five years, deputed its Inspector onsite verification. According to the AO that there was no business activity carried out by the assessee and the old business of the assessee has been shut down since last few years and determined the income of the assessee at Rs.1,92,72,800/-. The NFAC, Delhi by following the order of this Tribunal in assessee’s own case for A.Y. 2013-14 directed the AO to allow the expenditure.

4. Before us, the ld. AR submitted that there was no change in the facts of the case as compared to A.Y. 2013-14 and drew our attention to assessment order at para 4.1 and argued that the partners of the assessee were on lookout for a new dealership in automobiles and the interest paid by the assessee to Janta Sahkari Bank was on a loan availed for the purpose of business. He submitted that the order of this Tribunal for A.Y. 2013-14 maybe followed and supported the order of CIT(A), NFAC, Delhi.

5. We note that, for the A.Y. 2013-14, the AO computed business income at Rs.19,09,431/- being net income earned interest on debit balance of the partners which is evident from computation in para 4 of the assessment order, but however, denied expenses of Rs.70,13,404/- by

holding that the assessee had not carried out any business activity during the year under consideration. The said disallowance was deleted by this Tribunal in its order dated 01-11-2019 by holding that the conclusion of the AO that the assessee not carried out any business activity is contrary to the facts. Considering the totality of the facts, the Tribunal directed the AO to delete the addition of Rs.70,13,404/- made on account of disallowance of expenditure. The ld. DR did not bring on record view contrary to the findings of this Tribunal in assessee's own case for A.Y. 2013-14. Therefore, we find no infirmity in the order of CIT(A), NFAC, Delhi. Thus, the grounds raised by the Revenue fails and are dismissed.

6. In the result, the appeal of Revenue is dismissed.

Order pronounced in the open court on 21st June, 2023.

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

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

पुणे / Pune; दिनांक / Dated : 21st June, 2023.
रवि

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The concerned CIT, Pune.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच,
पुणे / DR, ITAT, "A" 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