

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "B", PUNE

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

आयकर अपील सं. / ITA No.26/PUN/2023
निर्धारण वर्ष / Assessment Year : 2011-12

Vimala Sohanlal Mehta, 4112, Khanapur Road, Barshi, Dist. Solapur- 413401. PAN : AZIPM2368L	Vs.	ITO, Ward-2(3), Solapur.
Appellant		Respondent

Assessee by : Shri Mohit Parmar
Revenue by : Shri Kailash Mangal

Date of hearing : 14.06.2023
Date of pronouncement : 05.07.2023

आदेश / ORDER

PER INTURI RAMA RAO, AM:

This is an appeal filed by the assessee directed against the order of Id. Principal Commissioner of Income Tax- 4, Pune ['PCIT'] dated 30.03.2021 for the assessment year 2011-12.

2. At the outset, we find that there is a delay in filing the present appeal by 584 days. The appellant had filed the condonation petition stating that the delay of 584 days had occurred on account

of ill health and after excluding the delay of Covid-19 period, there is a delay of 309 days in filing the appeal. The delay was caused in filing the present appeal on account of ill health of her daughter, who subsequently succumbed to death on 08.05.2023. In support of this, he also filed medical certificate etc. The averments made in the condonation petition remain un-controverted, therefore, it is a fit case for condonation of delay. Accordingly, we condone the delay and admit the appeal for adjudication.

3. Briefly, the facts of the case are that the appellant is an individual engaged in the business of footwear. No regular Return of Income was filed by the assessee. The Assessing Officer issued notice u/s 148 on 15.03.2018 on receipt of the information that the assessee had deposited Rs.35,69,000/- with Vishweshwar Sah. Bank Ltd. during the financial year 2010-11. In response to notice u/s 148, the appellant had filed the return of income declaring total income of Rs.3,75,400/-. Subsequently, the assessment was completed by the Income Tax Officer, Ward-2(5), Solapur ('the Assessing Officer') vide order dated 28.12.2018 passed u/s 143(3) r.w.s. 147 of the Income Tax Act, 1961 ('the Act') at a total income of Rs.8,07,131/-. While doing so, the Assessing Officer estimated

the profit @ 8% of Rs.99,74,550/- being cash deposited in the bank account.

4. Subsequently, the Id. PCIT, on examination of the assessment record, formed an opinion that the Assessing Officer had merely accepted the claim of the assessee that the source of cash deposits is out of the business receipts of trading in footwear without examining any documentary evidence such as licence, purchase & sale bills etc. Accordingly, the Id. PCIT proposed the revision of the assessment and issued a show-cause notice u/s 263 dated 12.02.2021 calling upon the appellant to show-cause as to why the assessment order should not be set-aside. No explanation was filed in response to the said show-cause notice issued u/s 263 of the Act. In the circumstances, the Id. PCIT set-aside the assessment order to the file of the Assessing Officer with a direction to reframe the assessment in accordance with law.

5. Being aggrieved, the appellant is in appeal before us in the present appeal.

6. We heard the rival submissions and perused the material on record. Since the assessee had not filed any explanation before the Id. PCIT in response to show-cause notice u/s 263, no pleadings

were made before us, as to how the ld. PCIT was wrong in exercising jurisdiction u/s 263, we are of the considered opinion that the ld. PCIT had rightly exercised the jurisdiction u/s 263 of the Act. Accordingly, we do not find any merit in the grounds of appeal filed by the assessee.

7. In the result, the appeal filed by the assessee stands dismissed.

Order pronounced on this 05th day of July, 2023.

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

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 05th July, 2023.

Sujeet

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT-4, Pune.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "B" बेंच, पुणे / DR, ITAT, "B" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

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