

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

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

आयकर अपील सं. / ITA No.627/PUN/2022
निर्धारण वर्ष / Assessment Year : 2018-19

Shri Anmol Avinash Mahajan, Flat No.10, Arya Enclave, Ashoka Marg, Nashik- 422011. PAN : AYJPM3596L	Vs.	ADIT, CPC, Bangalore.
Appellant		Respondent

Assessee by : Shri Sanket M. Joshi
Revenue by : Shri Ramnath P. Murkude

Date of hearing : 19.07.2023
Date of pronouncement : 31.07.2023

आदेश / ORDER

PER INTURI RAMA RAO, AM:

This is an appeal filed by the assessee directed against the order of the National Faceless Appeal Centre, Delhi ['NFAC'] dated 18.05.2022 for the assessment year 2018-19.

2. Briefly, the facts of the case are that the appellant is an individual deriving income under the head "Salaries". The appellant had filed the Return of Income for the assessment year 2018-19 on 29.08.2018 disclosing total income of Rs.27,25,040/-.

The said return of income was processed by the CPC, Bangalore u/s 143(1) of the Income Tax Act, 1961 ('the Act') accepting the returned income vide Intimation dated 28.02.2019. However, the CPC had not granted the credit for foreign tax of Rs.2,74,729/- on the ground that the appellant had filed Form No.67 as required under the provisions of Rule 128(9) of the Income Tax Rules, 1962 ('the Rules') on 11.11.2019 i.e. beyond the due date for filing the return of income i.e. 31.08.2018. Even rectification filed by the assessee came to be rejected. Then, the assessee had filed an appeal before the NFAC placing reliance on the several judicial precedents. However, the NFAC had rejected the claim of the assessee by holding that since filing of the Form No.67 within the due date for filing of the return of income is mandatory.

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

4. We had carefully gone through the submissions made before the NFAC and find that the Form No.67 was filed on 11.11.2019 i.e. beyond the due date of processing of return of income. Therefore, this would show that on the date of processing of return of income by CPC, no Form No.67 was available with the CPC for granting the credit for foreign taxes. However, the contention of the

appellant that the notice as envisaged under the proviso to the provisions of section 143(1) was not given about the proposed adjustments merit consideration and this fact was not disputed by the ld. Sr. DR. In the circumstances, we relegate the matter to the file of the Assessing Officer/CPC to the stage of issue of intimation about the proposed adjustment and then proceed to process the Return of Income u/s 143(1) of the Act. Thus, the appeal filed by the assessee stands partly allowed.

5. In the result, the appeal filed by the assessee stands partly allowed.

Order pronounced on this 31st day of July, 2023.

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

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 31st 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 concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "A" बेंच, पुणे / DR, ITAT, "A" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

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