

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

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.880/PUN/2023
निर्धारण वर्ष / Assessment Year : 2012-13

Maharashtra Vidyarthi Sahayyajk Mandal, 404, Sadashiv Peth, Lokmanya Tilak Road, Pune- 411030. PAN : AABTM0810D	Vs.	ITO (Exemptions), Ward-1(2), Pune.
Appellant		Respondent

Assessee by : Shri Piyush Bafna
Shri Aakash Parakh
Revenue by : Smt. Sonal Sonkavde
Date of hearing : 24.08.2023
Date of pronouncement : 30.08.2023

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 16.03.2022 for the assessment year 2012-13.

2. At the outset, there is a delay in filing the present appeal by 449 days. The appellant filed an affidavit praying for condonation

of delay stating that it was only during July, 2023 when the appellant trust had approached the then Tax Consultant to file the return of income, the Tax Consultant, namely, Shri Mahendra Pangare informed to the appellant trust that when he looked into the income tax portal of the assessee to check the AIS and 26AS statement in the context of filing the return of income for the assessment year 2023-24, he got to know that the NFAC passed an order for the assessment year 2012-13 on 16.03.2022. Immediately, thereafter the assessee had took the steps to file the appeal against the order of the NFAC with the above-mentioned delay. Thus, he agreed that the delay had occurred on account of factors which are beyond the control of the assessee. The appellant also filed an affidavit duly notarised from the said Tax Consultant, Shri Mahendra Pangare affirming the above facts.

3. On the other hand, ld. Sr. DR opposed the petition for condonation of delay.

4. I had carefully gone through the averments made in the affidavit for condonation of delay and find that the appellant

explained the delay and the appellant was prevented from filing the appeal within the time by sufficient and reasonable cause. Accordingly, I am of the considered opinion that it is a fit case for condonation of delay. Accordingly, the delay is condoned.

5. Now, come to the merits of the case. Briefly, the facts of the case are that the appellant is a trust rendering educational activities. The appellant trust had not filed the regular Return of Income under the provisions of section 139 of the Income Tax Act, 1961 ('the Act'). On verification of the ITS data, it was found that the appellant trust had made a cash deposit of Rs.14,69,375/- with Canara Bank during the previous year relevant to the assessment year under consideration. Based on this information, the Assessing Officer formed an opinion that the income had escaped assessment of tax and, accordingly, issued a notice u/s 148 of the Act on 27.03.2019. The appellant trust neither complied with the said notice issued u/s 148 nor responded to the notices issued u/s 142(1) of the Act. In the circumstances, the Assessing Officer made the assessment u/s 144 of the Act by bringing to tax the cash deposit of

Rs.14,69,375/- with Canara Bank and the interest income received of Rs.37,500/- as unexplained income of the assessee.

6. Being aggrieved, an appeal was filed before the NFAC contesting that the entire cash deposits does not represent the taxable income of the assessee. However, before the NFAC, the appellant had failed to respond to the hearing notices. In the circumstances, the NFAC confirmed the action of the Assessing Officer.

7. Being aggrieved, the appellant is in appeal before this Tribunal in the present appeal.

8. It is submitted before me that the Assessing Officer as well as the NFAC had failed to advert to the submissions made by the assessee that the cash deposits with the Canara Bank were made out of the fees collected from the students for repayment to the university towards fees payable to Higher Secondary Board of Maharashtra and the cash deposits does not represent the income of the appellant trust. Since the assessee's submission had not been adverted by the lower authorities, I am of the considered opinion

that the matter be remanded to the file of the Assessing Officer for *de novo* assessment in accordance with law after affording reasonable opportunity of being heard to the assessee. Thus, the grounds of appeal filed by the assessee stand partly allowed.

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

Order pronounced on this 30th day of August, 2023.

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 30th August, 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, "SMC" बेंच, पुणे / DR, ITAT, "SMC" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

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