

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

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

आयकर अपील सं. / ITA No.762/PUN/2023
निर्धारण वर्ष / Assessment Year : 2016-17

Ramakrishna Laxmanrao Ghule,
1097/1, Vijay Nagar,
Opp.-Ganesh Mangal Karyal,
Pune – 411017

PAN : AGIPG2368P

.....अपीलार्थी / Appellant

बनाम / V/s.

Income Tax Officer,
Ward – 8(2), Pune

.....प्रत्यर्थी / Respondent

Assessee by : N O N E
Revenue by : Shri M.G. Jasnani

सुनवाई की तारीख / Date of Hearing : 29-08-2023
घोषणा की तारीख / Date of Pronouncement : 01-09-2023

आदेश / ORDER

PER S.S. VISWANETHRA RAVI, JM :

This appeal by the assessee against the order dated 12-05-2023 passed by the National Faceless Appeal Centre, Delhi ("NFAC") for assessment year 2016-17.

2. The assessee filed application dated 25-08-2023 seeking adjournment on the ground that he wishes to appoint Consultant for

presenting the matter before this Tribunal. On perusal of record it is noted that this appeal was filed on 29-06-2023 and the Registry, ITAT, Pune Benches issued notice dated 06-07-2023 intimating the date of hearing on 28-07-2023. On perusal of the ordersheet, no representation whatsoever made on behalf of the assessee. The Bench ordered to send notice through RPAD and adjourned the case to 29-08-2023. In pursuance of such direction, the Registry issued another notice dated 01-08-2023 intimating the date of hearing on 29-08-2023. Thus, it clear having received two notices from this Tribunal intimating the date of hearing, the assessee did not make appearance in person or through an authorized representative. Further, an examination of the assessment order, we note that there was no appearance made by the AO before assessment proceedings and in the absence of representation on behalf of the assessee, the AO conducted assessment proceedings to his best judgment determined the total income of the assessee at Rs.71,52,930/- being net profit at 5% of total turnover of Rs.14,22,36,460/-. Having aggrieved by the said order, the assessee challenged the same before NFAC, Delhi, but however, having no representation on behalf of the assessee, the NFAC, Delhi having no alternative confirmed the order of AO. In view of the same, we proceed to hear ld. DR and pass order by perusing the material available on record. Therefore, the adjournment application dated 25-08-2023 is rejected.

3. After hearing ld. DR and perusing the material available on record, we note that the assessee is an individual engaged in the business of trading in cattle feed and conducts its business under the name and style as M/s. Guruprasad Dairy. Another business involving transportation under proprietary concern M/s. Guruprasad Logistik Co., the assessee declared a total loss at Rs.7,64,586/- including agricultural income. On perusal of para 2.1 of the assessment order which shows that no

compliances were made by the assessee before the AO. The AO by considering the deposits in many bank accounts as reflected in para 3.4.5 of the assessment order adopted net profit at 5% taking into account two bank accounts only by examining earlier two assessment years 2014-15 and 2015-16. Admittedly, the AO examined only two bank accounts i.e. Bank of Maharashtra and State Bank of India, but however, having no details about the other banks which clearly shows that there was no verification of such transactions in such bank accounts. Before the NFAC, Delhi, we note from para 5.1 of the impugned order, that there was no response to the several notices issued by the NFAC, Delhi nor any reply filed in support of grounds raised by the assessee. Having no alternative, the NFAC, Delhi confirmed the view taken by the AO in determining the total income of the assessee by adopting net profit rate at 5%. If that is the case, admittedly there was no proper representation by the assessee before the AO and NFAC, Delhi, even before us. Taking into facts and circumstances of the case and material available on record, we deem it proper to remand the matter to the file of CIT(A), NFAC, Delhi for its fresh consideration. The assessee is liberty to file evidences, if any, in support of its claim. Thus, the grounds raised by the assessee are allowed for statistical purpose.

4. In the result, the appeal of assessee is allowed for statistical purpose.

Order pronounced in the open court on 01st September, 2023.

Sd/-
(Inturi Rama Rao)
ACCOUNTANT MEMBER

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

पुणे / Pune; दिनांक / Dated : 01st September, 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, "बी" बेंच, पुणे / DR, ITAT, "B" 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