

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE 'A' BENCHES :: PUNE

BEFORE SHRI R.S. SYAL, HON. VICE PRESIDENT &
SHRI PARTHA SARATHI CHAUDHURY, HON. JUDICIAL MEMBER

ITA No.981/PUN/2023
(A.Y. 2017-18)

Amit Bapuso Lohar, Akurde Village, Bhudargad Taluka, Kolhapur-416232. PAN: ACBPL 2933 L	vs	ITO, Ward-1(1), Kolhapur.
Appellant		Respondent

Assessee by	:	None
Revenue by	:	Shri Ramnath P. Kurkunde, DR
Date of hearing	:	22/09/2023
Date of pronouncement	:	22/09/2023

O R D E R

Per PARTHA SARATHI CHAUDHURY, JM:

This appeal preferred by the assessee emanates from the order of National Faceless Appeal Centre [NFAC], Delhi, dated 03.08.2023 for A.Y.2017-18 as per the grounds of appeal on record.

2. At the outset, it is seen from the order of the NFAC at para 3 that in spite of notice of hearing issued to the assessee, the assessee neither filed any response nor filed any submission. The assessee has not effectively pursued the appeal proceedings and failed to respond to various notices issued by the office of NFAC. The assessee even did not respond to the enablement communication notice dated 16/11/2022 issued by the NFAC. Thereafter, the NFAC had dismissed

the appeal of the assessee upholding the order of the Assessing Officer (AO) for non-prosecution of the appeal. Therefore, it is evident that the *ex-parte* order passed by NFAC has not determined substantially the rights and liabilities of the parties on merits. The appeal has been dismissed for non-prosecution. It is correct that sufficient opportunity of hearing has been given to the assessee and he has failed to avail the benefit of such notice issued, however, the very fact that income tax is welfare legislation, the rights of the tax-payer/assessee needs to be protected as far as possible within the ambit of the statute. If the NFAC would have adjudicated the issues on merits of the case, the matter would have been different since then this Tribunal could have decided upon the correct applicability of law vis-a-vis decision taken in the impugned order. Since the matter has been disposed of for non-prosecution, we are of the considered view that in the interest of justice, the rights and liabilities of the parties needs to be determined substantially through adjudication at the NFAC level. We also direct the assessee that since one final opportunity is being given to him, he should submit all details/evidences as and when called for by NFAC and represent his case on merits. In view thereof, we set aside the order of the NFAC and remand the matter back to its file for adjudication as per law complying with the principles of natural justice. The grounds of appeal stands allowed for statistical purposes.

3. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in open Court on 22nd September, 2023.

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

Sd/-
(PARTHA SARATHI CHAUDHURY)
JUDICIAL MEMBER

Dated : 22nd September, 2023

vr/-

Copy to :

1. The Appellant.
2. The Respondent.
3. The Pr. CIT concerned.
4. The DR, ITAT, "A" Bench Pune.
5. Guard File.

By Order

// TRUE COPY //

Senior Private Secretary
ITAT, Pune.