

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.816/PUN/2022
निर्धारण वर्ष / Assessment Year : 2017-18

Income Tax Officer,
Ward – 1, Panvel

.....अपीलार्थी / Appellant

बनाम / V/s.

Shri Sitaram Ramdas Balkawde,
Kansai, Ainghar, Roha,
Raigad – 402126

PAN : AQHPB0055H

.....प्रत्यर्थी / Respondent

प्रत्याक्षेप सं. / CO No.03/PUN/2023
निर्धारण वर्ष / Assessment Year : 2017-18

Shri Sitaram Ramdas Balkawde,
Kansai, Ainghar, Roha,
Raigad – 402126

PAN : AQHPB0055H

.....अपीलार्थी / Appellant

बनाम / V/s.

Income Tax Officer,
Ward – 1, Panvel

.....प्रत्यर्थी / Respondent

Assessee by : Shri Sachin Amdekar
Revenue by : Shri M.G. Jasnani

सुनवाई की तारीख / Date of Hearing : 07-09-2023

घोषणा की तारीख / Date of Pronouncement : 20-09-2023

आदेश / ORDER**PER S.S. VISWANETHRA RAVI, JM :**

This appeal by the Revenue against the order dated 27-08-2022 passed by the National Faceless Appeal Centre, Delhi ("NFAC") for assessment year 2017-18. The assessee has also filed Cross Objection in the appeal filed by the Revenue.

2. The ld. AR, Shri Sachin Amdekar submits that the assessee is not interested to prosecute the cross objection. Hence, the same is dismissed as not pressed.

3. The ld. DR, Shri M.G. Jasnani submits that the assessee deposited cash aggregating to Rs.37,20,400/- in his bank account and not filed return of income. The AO issued show cause notice on 17-06-2019 for making compliance and submission of evidences by 24-06-2019. The ld. DR submits that there was no compliance by the AO and drew our attention to para 6 of the assessment order. The finding of CIT(A) is incorrect as there was no case made out by the AO that the cash deposited during demonetization period attracted the provisions u/s. 69 of the Act. The ld. DR brought on record two circulars issued by the CBDT vide orders dated 15-11-2017 and 05-03-2019, wherein, guidance was given to the Income Tax authorities handling the cases relating to substantial cash deposits during demonetization period. The ld. DR vehemently argued that the procedure as contemplated in the said circulars were not followed by the CIT(A) and as such relief given by the CIT(A) is not justified. He prayed to remand the issue to the file of AO for its fresh consideration to conduct assessment proceedings in terms of guidance given by the CBDT vide above said two circulars.

4. The ld. AR submits that the CIT(A) passed reasoned order considering the material evidences furnished by the assessee. He argued that the assessee furnished every details relating to the issue raised before the CIT(A) and drew our attention to the paper book containing 28 pages. He vehemently argued that the order of CIT(A) is justified and prayed to dismiss the appeal of Revenue, but however, fairly conceded that there was no compliance before the AO.

5. At the outset, we note that the AO completed the assessment to his best judgment u/s. 144 of the Act determining the total income of the assessee at Rs.3,16,38,160/- as against the Nil income declared by the assessee, inter alia making addition on account of sections 69A and 6A of the Act. The assessee preferred an appeal before the NFAC, Delhi, wherein, the relief was given by holding that the AO did not make out a case showing the cash deposits made during the demonetization consisting of specified bank notes. We note that on perusal of para 1 of the assessment order, it is observed that the assessee deposited cash aggregating to Rs.37,20,400/-, but however, having no assistance from the assessee, the AO added entire cash deposits as fund in the bank account maintained in the Bank of Maharashtra of the assessee. The CIT(A) was of the opinion that the turnover report in profit and loss account is included the cash deposits of Rs.2,17,52,330/- and there was no evidence to show that effect preferred by the NFAC, Delhi. Before us also no evidence filed in support of findings of CIT(A). The ld. DR submits that the NFAC, Delhi accepted the submissions made by the assessee without verification and examination of the AO deleted the addition made by the AO. There was no opportunity for the AO to examination of the alleged evidences filed before the NFAC, Delhi. As discussed above, no evidences were filed before us as the paper book containing 28 pages as brought on record by the ld. AR

only shows Form No. 36 submitted before the CIT(A) and copy of assessment order. Therefore, we are of the considered opinion since no evidences preferred by the NFAC, Delhi in giving relief to the assessee, we deem it proper to remand the matter to the file of CIT(A), NFAC, Delhi for its fresh consideration to conduct the proceedings in terms of the two circulars issued by the CBDT handling the cases involving the substantial cash deposits. The assessee is liberty to filed evidences, if any, in support of its claim. Thus, the grounds raised by the Revenue are allowed for statistical purpose.

6. In the result, the appeal of Revenue is allowed for statistical purpose and the cross objection filed by the assessee is dismissed.

Order pronounced in the open court on 20th September, 2023.

Sd/-
(Inturi Rama Rao)
ACCOUNTANT MEMBER

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

पुणे / Pune; दिनांक / Dated : 20th 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