

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

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

आयकर अपील सं. / ITA No.799/PUN/2023
निर्धारण वर्ष / Assessment Year : 2012-13

Sambhaji Sattaji Sarpate, 803-9, Qnyaneshwarnagar Wadi, BO Gram Wadi BU TQ Nanded, Dist. Nanded- 431602 PAN : DJBPS7573D	Vs.	ITO, Ward-5, Nanded.
Appellant		Respondent

Assessee by : None
Revenue by : Shri M. G. Jasnani
Date of hearing : 20.09.2023
Date of pronouncement : 27.09.2023

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 18.05.2023 for the assessment year 2012-13.

2. Briefly, the facts of the case are that the appellant is an individual. No regular Return of Income under the provisions of section 139 of the Income Tax Act, 1961 ('the Act') for the

assessment year 2012-13 was filed. However, on receipt of the information that the assessee had made a cash deposit of Rs.10,00,000/- in savings bank account maintained with the State Bank of India, Nanded during the previous year relevant to the assessment year under consideration, a notice u/s 148 of the Act was issued. In response to notice u/s 148, no return of income was filed by the appellant. Based on the information, the assessment was completed u/s 144 r.w.s. 147 of the Act on 14.03.2016 at total income of Rs.10,00,000/-. The Assessing Officer also initiated the penalty proceedings u/s 271(1)(c) of the Act.

3. Subsequently, on appeal before the NFAC, the quantum addition was sustained by the NFAC. However, on further appeal before the ITAT, the ITAT vide order dated 01.09.2023 remitted the matter back to the file of the NFAC for *de novo* adjudication of issue in appeal. While the matter stood thus, the Assessing Officer had proceeded with levy of penalty u/s 271(1)(c) by holding that the appellant is guilty for concealment of income vide order dated 07.09.2016 and levied a penalty of Rs.1,55,530/-.

4. Being aggrieved by the order of penalty, an appeal was filed before the NFAC, who vide impugned order confirmed the action of

the Assessing Officer in levying penalty of Rs.1,55,530/- u/s 271(1)(c) of the Act.

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

6. When the matter was called on, none appeared on behalf of the assessee despite due service of notice of hearing. Therefore, we proceed to dispose of the matter after hearing the ld. Sr. DR.

7. We heard the ld. Sr. Dr and perused the material on record. We find that the Assessing Officer had proceeded with the levy of penalty u/s 271(1)(c) despite the fact that the appeal against the addition made by the Assessing Officer was pending disposal before the NFAC. Even the Tribunal had remitted the matter back to the file of the NFAC in respect of addition made by the Assessing Officer in the quantum appeal. Further, we find that the impugned penalty order is passed before the order passed by the ITAT in quantum appeal. Therefore, the matter requires remission to the file of the Assessing Officer to revise the penalty order giving effect to the order of the Tribunal. Accordingly, the matter is remitted to the file of the Assessing Officer in terms of the provisions of section 275(1A) of the Act.

8. In the result, the appeal filed by the assessee stands partly allowed for statistical purposes.

Order pronounced on this 27th day of September, 2023.

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

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 27th September, 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, "B" बेंच,
पुणे / DR, ITAT, "B" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

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