

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

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.952/PUN/2023

निर्धारण वर्ष / Assessment Year : 2010-11

Maroti Bapurao Poul, Pharkanda Palam, Parbhani- 431720. PAN : EBRPP2151R	Vs.	ITO & TPS Ward, Parbhani.
Appellant		Respondent

Assessee by : Shri M. K. Kulkarni
Revenue by : Shri Kalpesh Rupavatiya

Date of hearing : 27.09.2023

Date of pronouncement : 05.10.2023

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 30.06.2023 for the assessment year 2010-11.

2. Briefly, the facts of the case are that the appellant is an individual deriving income under the head "agricultural activities".

No regular return of income under the provisions of section 139 of the Income Tax Act, 1961 ('the Act') was filed by the assessee.

However, on receipt of the information that the appellant had made cash deposits of Rs.12,84,300/- in State Bank of India (the then

SBH), Palam, Dist. Parbhani during the year under consideration, a notice u/s 148 of the Act was issued on 27.03.2017. In response to notice u/s 148, no return of income was filed by the appellant. Based on this information, the assessment was completed by the Income Tax Officer & TPS, Parbhani ('the Assessing Officer') vide order dated 12.11.2018 passed u/s 144 r.w.s. 147 of the Act at a total income of Rs.12,84,300/-.

3. Being aggrieved by the above assessment order, an appeal was before the NFAC, who vide impugned order dismissed the appeal of the assessee for non-prosecution.

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

5. I heard the rival submissions and perused the material on record. From perusal of the impugned order, it is clear that the NFAC while passing the *ex-parte* order had not adjudicated the issue raised in appeal on merits, instead the NFAC held that the appeal is not admitted for want of prosecution of appeal. This approach of the NFAC is totally unreasonable and unjustified. The NFAC fell in serious error by not admitting the appeal for non-prosecution. The settled positions of law mandates the NFAC to

dispose of the appeal by adjudicating the issue raised in appeal on merits. In the present case, the NFAC had fell into serious error by holding that the appeal is not admitted for non-prosecution of appeal. Therefore, we vacate this finding of the NFAC.

6. In the circumstances, I remand the matter back to the file of the NFAC and direct to dispose of the appeal on merits in accordance with law after affording due opportunity of being heard to the appellant.

7. In the result, the appeal of the assessee stands partly allowed for statistical purposes.

Order pronounced on this 05th day of October, 2023.

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 05th October, 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.