

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

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.962/PUN/2023
निर्धारण वर्ष / Assessment Year : 2009-10

Abdul Hafez Abdul Aziz Shaikh, D-22, Indo American Equipments, Aurangabad Road, Addl. MIDC Area, Jalna- 431203. PAN : AYHPS3777M	Vs.	ITO, Ward-1, Jalna.
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 13.06.2023 for the assessment year 2009-10.

2. Briefly, the facts of the case are that the appellant is a proprietary concern running under the name and style of "Indo American Equipment". It is engaged in the business of manufacturing of Agricultural Machinery and Equipment. The Return of Income for the assessment year 2009-10 was filed on

30.09.2009 declaring total income of Rs.3,95,980/-. Against the said return of income, the assessment was completed by the Income Tax Officer, Ward-1 Jalna ('the Assessing Officer') vide order dated 12.03.2015 passed u/s 144 r.w.s. 147 of the Income Tax Act, 1961 ('the Act') at total income of Rs.7,73,845/-. While doing so, the Assessing Officer had made addition of Rs.3,05,084/- on account of bogus purchases and also made addition of Rs.72,781/- being 0.50% of total turnover of Rs.1,45,56,368/-.

3. Being aggrieved by the above additions, an appeal was filed before the NFAC, who vide impugned order dismissed the appeal of the assessee for non-prosecution without going into the merits of the issue in appeal.

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 अपीलिय अधिकरण, "SMC" बेंच, पुणे / DR, ITAT, "SMC" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

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