

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

BEFORE SHRI R.S. SYAL, VICE PRESIDENT

ITA No.133/PUN/2023

निर्धारण वर्ष / Assessment Year : 2016-17

Anita Anil Rangale L/H of Late Anil Rangale RH-39 RH-39, New Swagat Hos. Society, Bajaj Nager, Waluj MIDC, Aurangabad PAN: AGTPR1107L	Vs.	ACIT, Circle 1, Aurangabad
Appellant		Respondent

Assessee by Shri Nikhil Pathak &
Miss Arrchena Shetty
Revenue by Smt Neha Deshpande

Date of hearing 10-10-2023
Date of pronouncement 10-10-2023

आदेश / ORDER

PER R.S. SYAL, VP :

This appeal by the assessee is directed against the order dated 08.12.2022 passed by the CIT(A) in National Faceless Appeal Centre (NFAC), Delhi in relation to assessment year 2016-17.

2. Briefly stated, the facts of the case are that the assessee has been a salaried employee of Colgate Palmolive (India) Ltd., Aurangabad Unit. An Early Retirement Scheme (ERS) was formulated by the employer. The assessee was one of the

employees opting for the ERS. He claimed relief u/s 89 of the Income-tax Act, 1961 (hereinafter also called 'the Act') to the extent of Rs.6,06,258/- in the return of income, without claiming exemption u/s 10(10C). The Assessing Officer (AO) held that there was no termination of employment and the amount received by the assessee was compensation which was not a capital receipt. He, therefore, held it to be profits in lieu of salary as per section 17(3) and re-worked the amount of relief u/s 89. No succor was provided by the CIT(A). Aggrieved thereby, the assessee has come up in appeal before the Tribunal.

3. I have heard both the sides and perused the record. At the very outset, the ld. counsel for the assessee submitted that the proceedings before the AO have gone on the premise that the assessee opted for voluntary retirement, which was not thrust upon him. He placed on record a letter dated 06.10.2023 issued by the Colgate Palmolive (India) Ltd. stating that the assessee and other employees were not entitled for the scheme nor was the company under any obligation under the same to

the employees. It was submitted that this is an important additional evidence which has bearing on the issue. In view of the fact that an additional evidence has been placed before the Bench, which appears to have significance in deciding the matter, I am of the considered opinion that it would be just and fair if the impugned order is set-aside and the matter is remitted to the file of the AO with a direction to decide the issue afresh in the hue of the above additional evidence as per law after allowing a reasonable opportunity of hearing to the assessee. I order accordingly. Needless to say, the assessee will be at liberty to file any further evidence in support of his contention.

4. In the result, appeal is allowed for statistical purposes.

Order pronounced in the Open Court on 10th October, 2023.

Sd/-
(R.S.SYAL)

उपाध्यक्ष/ VICE PRESIDENT

पुणे Pune; दिनांक Dated : 10th October, 2023
GCVSR

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order is forwarded to:

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent
3. The concerned Pr.CIT, Pune
4. DR, ITAT, 'SMC' Bench, Pune
5. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

// True Copy //

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

		Date	
1.	Draft dictated on	10-10-2023	Sr.PS
2.	Draft placed before author	10-10-2023	Sr.PS
3.	Draft proposed & placed before the second member	-	JM
4.	Draft discussed/approved by Second Member.	-	JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

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