

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE 'A' BENCHES:: PUNE

BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER &
SHRI G.D. PADMAHSHALI, ACCOUNTANT MEMBER

ITA No.1007/PUN/2023
(A.Y. 2015-16)

Abhay Suresh Raut, Flat No.13, E-5, Phase-II, Hermes Heritage, Shastrinagar, Pune-411014 PAN: AEUPR 9745 K	vs	ITO, Ward-7(2), Pune.
Appellant		Respondent

Assessee by	:	Shri Prasad S. Bhandari, CA
Revenue by	:	Shri Ramnath P. Murkunde, DR
Date of hearing	:	12/10/2023
Date of pronouncement	:	12/10/2023

ORDER

Per PARTHA SARATHI CHAUDHURY, JM:

This appeal preferred by the assessee emanates from the order of National Faceless Appeal Centre [NFAC], Delhi, dated 08.03.2023 for A.Y.2015-16 as per the grounds of appeal on record.

2. At the outset, it is observed that this appeal is time barred by 131 days and the assessee has filed delay condonation petition. We have observed from the contents of the said condonation petition that the delay has been caused due to circumstances beyond the control of the assessee and is not deliberate or intentional on his part. Ld.DR did not raise objection regarding condoning this delay. Considering the facts on record, the delay of 131 days on filing this appeal is condoned and the case is heard on merits.

3. We observe from the assessment order that it is passed u/sec. 144 of the Act as the best judgment assessment. That, from para 6 of the said order, it is evident that there was non-compliance by the assessee before the Assessing Officer (AO) which resulted into completion of assessment u/sec. 144 of the Act. We further find that before NFAC also, there were several opportunities of hearing given to the assessee, but he has not complied with any of the hearing notices. Resultantly, the NFAC had dismissed the appeal for non-prosecution. That, on enquiry from the Bench as to this habitual non-compliance before the Revenue authorities, Id.AR made a statement at bar that the father of the assessee had expired during the time of assessment proceedings and there were also some litigations going on in the family for which, the assessee was unable to comply with any of the hearing notices before the AO as well as before the NFAC. The Id.AR submitted that due to these *bonafide* reasons, the assessee was prevented from attending the proceedings before the respective revenue authorities. Ld.DR, in principle, supported the orders of the subordinate authorities, but submitted that due to the reasons specified by the Id.AR in this case, if the matter is re-adjudicated at any of the stage, even before the AO or NFAC, then there is no objection from the Department.

4. Considering these submissions of the parties herein and keeping in mind the spirit of tax legislation, which is within the ambit of welfare legislation, this Tribunal admits the reasons as genuine for non-

compliance before the Revenue authorities. That, generally under the facts and circumstances as apparent in this case from record, we would have remanded the matter to the file of NFAC since at that stage, there was no adjudication on merits and the matter had been dismissed by NFAC for non-prosecution by the assessee. However, considering the special reasons in this case of the assessee as submitted by the Id.AR that there was death in the family as well as other legal proceedings going on, therefore, since the assessee was absent at the assessment proceedings and the order had been passed u/sec.144 of the Act, therefore, considering these special circumstances in this case, we are remanding this matter to the file of the AO to re-adjudicate as per law complying with principles of natural justice and at the same time, we direct the assessee to comply with all the hearing notices and represent his case on merits. In view thereof, we set aside the order of NFAC and remand the matter to the file of the AO as herein above directed. The grounds of appeal stands allowed for statistical purposes.

5. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in open Court on 12th October, 2023.

Sd/-
(G.D. PADMAHSHALI)
ACCOUNTANT MEMBER

Sd/-
(PARTHA SARATHI CHAUDHURY)
JUDICIAL MEMBER

Dated : 12th October, 2023

vr/-

Copy to :

1. The Appellant.
2. The Respondent.
3. The Pr. CIT concerned.
4. The DR, ITAT, "B" Bench Pune.
5. Guard File.

By Order

// TRUE COPY //

Senior Private Secretary
ITAT, Pune.