

आयकर अपीलीय अधिकरण न्यायपीठ नागपूर में ।
IN THE INCOME TAX APPELLATE TRIBUNAL, NAGPUR

(Through Virtual Court)

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

आयकर अपील सं. / ITA No.219/NAG/2018
निर्धारण वर्ष / Assessment Year : 2011-12

Vishal Nanaji Kondawar,
Flat No. 202, Harekrishna Enclave,
Farmland, Ramdaspeth,
Nagpur-440010

PAN : AJDPK0206E

.....अपीलार्थी / Appellant

बनाम / V/s.

Asstt. Commissioner of Income Tax,
Central Circle – 2(1), Nagpur

.....प्रत्यर्थी / Respondent

आयकर अपील सं. / ITA No.235/NAG/2018
निर्धारण वर्ष / Assessment Year : 2011-12

Nanaji Laxman Kondawar,
Flat No. 201, Harekrishna Enclave,
Farmland, Ramdaspeth,
Nagpur-440010

PAN : ABZPK3639D

.....अपीलार्थी / Appellant

बनाम / V/s.

Asstt. Commissioner of Income Tax,
Central Circle – 2(1), Nagpur

.....प्रत्यर्थी / Respondent

Assessee by : Shri Manoj Moryani
Revenue by : Shri Kailash G. Kanojiya

सुनवाई की तारीख / Date of Hearing : 16-10-2023

घोषणा की तारीख / Date of Pronouncement : 19-10-2023

आदेश / ORDER

PER S.S. VISWANETHRA RAVI, JM :

These two appeals filed by the assessee against the common order dated 25-06-2018 passed by the Commissioner of Income Tax (Appeals)-3, Nagpur [‘CIT(A)’] for assessment year 2011-12.

2. Since, the issues raised in both the appeals are similar basing on the same identical facts. Therefore, with the consent of both the parties, we proceed to hear both the appeals together and to pass a consolidated order for the sake of convenience.

3. First, we shall take up appeal in ITA No.219/NAG/2018 for A.Y. 2011-12.

4. At the outset, we note that the AO determined the total income of the assessee at Rs.4,55,470/- as against the returned income of Rs.3,10,690/- in response to the notice u/s. 153A of the Act inter alia making addition on account of gain on transfer of agricultural land vide his order dated 30-03-2015 passed u/s. 153A r.w.s. 143(3) of the Act. The same was challenged before the CIT(A). On perusal of the impugned order, we note that the CIT(A) issued seven notices intimating the date of hearing to the assessee and according to the CIT(A), the assessee did not avail the opportunities given in pursuing grounds of appeal challenging the addition made by the AO which is evident from para 3.1 and 3.2 of the impugned order. Further, we note that the CIT(A) proceeded to dispose off the grounds

raised by the assessee basing on the material available on record which clearly shows there was no opportunity for the assessee to make submissions in support of grounds raised therein. The ld. AR prayed for another opportunity may be afforded to the assessee to prosecute this appeal and the assessee to ready to lead submissions in support of grounds raised before the CIT(A). The ld. DR did not report any objection in remanding the matter to the file of CIT(A) for fresh consideration. Thus, in the facts and circumstances of the case and in the interest of justice, we deem it proper to remand the matter to the file of CIT(A) for its fresh consideration. The assessee is liberty to file evidences, if any, in support of its claim.

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

ITA No. 235/NAG/2018 for A.Y. 2011-12.

6. We find that this appeal was filed with a delay of 19 days. The assessee filed application dated 26-09-2018 explaining the reasons for delay. On perusal of the same and hearing both the parties, we find that the reasons stated by the assessee are bonafide which really prevented the assessee to file the present appeal in time. Therefore, the delay of 19 days is condoned.

7. This appeal pertains to imposition of penalty u/s. 271(1)(c) of the Act. Since, we decided to remand the quantum appeal in ITA No. 219/NAG/2018 in above mentioned paragraphs, this appeal also in questioning the imposition of penalty is remanded to the file of CIT(A) for

its fresh consideration. The assessee is liberty to file evidences, if any, in support of its claim.

8. In the result, the appeal of assessee is allowed for statistical purpose.

9. To sum up, both the appeals are allowed for statistical purpose.

Order pronounced in the open court on 19th October, 2023.

Sd/-
(Inturi Rama Rao)
ACCOUNTANT MEMBER

Sd/-
(S.S. Viswanethra Ravi)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 19th October, 2023.
रवि

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-3, Nagpur
4. The CIT(Central), Nagpur.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, नागपूर,
/ DR, ITAT, Nagpur.
6. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune