

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

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

आयकर अपील सं. / ITA No.1066/PUN/2023
निर्धारण वर्ष / Assessment Year: 2014-15

M/s. S. P. Engineers, 101, Rushabh Heritage, Near Shringeri Math, Left Bhusari Colony, Kothrud, Pune- 411038. PAN : AASFS4352B	Vs.	DCIT, Circle-3, Pune.
Appellant		Respondent

Assessee by : None
Revenue by : Shri M. G. Jasnani

Date of hearing : 31.10.2023
Date of pronouncement : 31.10.2023

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 11.08.2023 for the assessment year 2014-15.

2. Briefly, the facts of the case are that the appellant is a firm engaged in the business of manufacturing of engineering goods. The Return of Income for the assessment year 2014-15 was filed on 30.11.2014 declaring total loss of Rs.1,88,86,180/-. Against the said return of income, the assessment was completed by the Dy. Commissioner of Income Tax, Circle-3, Pune ('the Assessing

Officer') vide order dated 30.11.2016 passed u/s 144 r.w.s. 143(3) of the Income Tax Act, 1961 ('the Act') at total income of Rs.2,27,18,653/-. While doing so, the Assessing Officer had made addition of Rs.1,46,98,625/- by estimating net profit of business income @ 15% of gross receipts and also made addition of Rs.80,20,028/- on account of unexplained credits u/s 68 of the Act.

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 us in the present appeal.

5. When the appeal was called on, none appeared on behalf of the assessee despite due service of notice of hearing. Therefore, we proceed to dispose of the appeal after hearing the ld. Sr. DR.

6. We heard the ld. Sr. DR 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 dismissed the appeal for want of prosecution of appeal. This approach of the NFAC is totally unreasonable and unjustified. The NFAC fell in serious error by not adjudicating the issues in appeal on merits. 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 not disposing of the appeal on merits. Therefore, we vacate this finding of the NFAC. In the circumstances, we 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 31st day of October, 2023.

Sd/-
(S. S. VISWANETHRA RAVI)
JUDICIAL MEMBER

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 31st 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, "B" बेंच, पुणे / DR, ITAT, "B" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

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