

आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, PUNE

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

आयकर अपील सं. / ITA No.1050/PUN/2023
निर्धारण वर्ष / Assessment Year : 2012-13

Satish Veerbhadra Konale,
C/o G G Ladda and Associates CA,
306, Labh Chambers, Railway Station Road,
Opp. MTDC, Aurangabad – 431005

PAN : AVVPK0822C

.....अपीलार्थी / Appellant

बनाम / V/s.

The Income Tax Officer,
Ward – 1, Latur

.....प्रत्यर्थी / Respondent

Assessee by : N O N E
Revenue by : Shri M.G. Jasnani

सुनवाई की तारीख / Date of Hearing : 30-10-2023
घोषणा की तारीख / Date of Pronouncement : 31-10-2023

आदेश / ORDER

PER S.S. VISWANETHRA RAVI, JM :

This appeal by the assessee against the order dated 09-08-2023 passed by the National Faceless Appeal Centre, Delhi ("NFAC") for assessment year 2012-13.

2. The assessee filed adjournment application dated 29-10-2023 seeking adjournment stating that his authorized representative is suffering from infection, fever and cough and requested to adjourn the case for two

weeks. The ld. DR submits that there was no compliance made by the assessee in the First Appellate proceedings and drew our attention to page 4 of the impugned order. On perusal of the same, we note that the NFAC, Delhi issued three notices and no compliance was made by the assessee which is evident from para 4.1 of the impugned order. Having no appearance on behalf of the assessee, the NFAC, Delhi proceeded to dismiss the grounds raised by the assessee due to non-compliance attitude and in the absence of submissions in support of grounds raised. The DR submits that the appeal can be disposed off in the absence of assessee by remanding the matter to the file of NFAC, Delhi for its fresh consideration. We note that the appeal of assessee was dismissed for non-prosecution which clearly shows that there was no opportunity to the assessee in the First Appellate proceedings which is also statutory authority under the Act. Thus, the adjournment application filed by the assessee is rejected.

3. On perusal of the assessment order dated 20-12-2019, we note that the AO issued notice u/s. 148 of the Act on receipt of information cash deposits found in assessee's account i.e. State Bank of India Corporate Centre. Further, for verification a notice u/s. 142(1) of the Act issued, in response to which, we find no compliance by the assessee which is evident from para 3 of the assessment order. In the absence of which, the AO proceeded to make assessment to his best judgment u/s. 144 of the Act. Thus, it manifest from the assessment proceedings that the assessee did not avail nor respond to the notices issued by the AO in reopening assessment proceedings. Thereby, meaning there was no explanation by the assessee in the original proceedings i.e. assessment proceedings. Further, coming to the First Appellate proceedings inspite of having issuance of notice the assessee did not prefer to prosecute his case in

support of grounds raised by filing explanation rebutting the view taken by the AO in making addition on account of cash deposits. Having no explanation, the CIT(A) proceeded to confirm the view taken by the AO in making addition on account of cash deposits, but however, as discussed above, we find that there was no finding by the CIT(A) on merits of the case wherein, the sub-section (6) of section 250 of the Act mandates the CIT(A) to dispose off the appeal in writing stating points for determination the decision and the reason therein. We note that the CIT(A) proceeded to dispose off the appeal for non-prosecution without being any decision on merits. Therefore, taking into submissions of ld. DR and in the interest of justice, in the facts and circumstances of the case, we deem it proper to remand the matter to the file of NFAC, Delhi for its fresh consideration. The assessee is liberty to raise any issue on law as well as on facts before the NFAC, Delhi and the NFAC, Delhi shall consider the same taking into consideration the material evidences as furnished by the assessee and pass order, in accordance with law.

4. In view of our decision in remanding the matter to the file of NFAC, Delhi, the grounds raised herein are allowed for statistical purpose. The assessee is liberty to file evidences, if any, in support of his claim.

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

Order pronounced in the open court on 31st October, 2023.

Sd/-
(Inturi Rama Rao)
ACCOUNTANT MEMBER

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

पुणे / Pune; दिनांक / Dated : 31st October, 2023.

रवि

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, "बी" बेंच,
पुणे / DR, ITAT, "B" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

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