

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

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.1087/PUN/2023

निर्धारण वर्ष / Assessment Year : 2010-11

Zainab Abbas Lokhandwala, 588/2A Burhani Colony, Plot No.27, Market Yard, Pune- 410037. PAN : ABAPL1388H	Vs.	ITO, Ward-6(3), Pune.
Appellant		Respondent

Assessee by : Shri Lalit Valecha
Revenue by : Shri A. K. Mahala

Date of hearing : 16.11.2023
Date of pronouncement : 16.11.2023

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 21.09.2023 for the assessment year 2010-11.

2. Briefly, the facts of the case are that the appellant is an individual. No regular Return of Income under the provisions of section 139 of the Income Tax Act, 1961 ('the Act') was filed for

the assessment year 2010-11. On receipt of the information that the appellant had sold the immovable property for a consideration of Rs.40,00,000/-, the Assessing Officer issued a notice u/s 148 of the Act on 29.03.2017. In response to the notice u/s 148 and notice u/s 142(1) of the Act, the appellant had not caused any appearance before the Assessing Officer. In the circumstances, the Assessing Officer proceeded to complete the assessment to the best judgement u/s 144 of the Act by bringing to tax on entire sale consideration of Rs.40,00,000/-.

3. Being aggrieved by the above action of the Assessing Officer, an appeal was filed before the NFAC, who vide impugned dismissed the appeal *ex-parte* without condoning the delay of 167 days in the absence of any prayer for condonation of delay.

4. Being aggrieved, the appellant is in appeal before this Tribunal in the present appeal.

5. It is contended that the assessment order was received by the assessee on 28.06.2018 as per the acknowledgement, which is placed at page no.31 of the Paper Book, whereas, the appeal was filed on 07.07.2018, which is within the prescribed limit for filing

the appeal. It is further submitted that there was no delay in filing the appeal before the NFAC. Thus, it is submitted that the order of the NFAC be quashed.

6. On the other hand, ld. Sr. DR did not dispute the above submissions of the assessee.

7. I heard the rival submissions and perused the material on record. On mere perusal of the impugned order of the NFAC, it would be clear that the NFAC had come to the conclusion that there was delay of 167 days in filing the appeal before the NFAC. It appears that for the purpose of computing the limitation for filing the appeal before the NFAC, the NFAC went by the date of order of the Assessing Officer i.e. 22.12.2017 instead of actual date of service of the assessment order upon the assessee. Therefore, I am convinced that there was no delay in filing the appeal before the NFAC and the findings of the NFAC on the issue of condonation of delay are reversed. Therefore, I restore the appeal to the file of the NFAC for adjudication of the appeal on merits in accordance with law after affording reasonable opportunity of being heard to the assessee.

8. In the result, the appeal filed by the assessee stands partly allowed for statistical purposes.

Order pronounced on this 16th day of November, 2023.

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 16th November, 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, "SMC" बेंच, पुणे / DR, ITAT, "SMC" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

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