

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

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.1371/PUN/2023  
निर्धारण वर्ष / Assessment Year : 2017-18

Maruti Laxman Parse, S.No.14/13, Sai Niwas, Adarsh Colony, Belthika Nagar, Thergaon, Pune-City, Thergaon B.O.- 411033. PAN : AIEPP8194Q	Vs.	ITO, Ward-9(3), Pune.
Appellant		Respondent

Assessee by : Shri Kishor B. Phadke  
Revenue by : Shri Uma Shankar Prasad

Date of hearing : 01.01.2024  
Date of pronouncement : 01.01.2024

**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 12.09.2023 for the assessment year 2017-18.

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 2017-18. On receipt of the information that the appellant had made cash deposits of Rs.24,50,000/- with Indian

Overseas Bank during the period of demonetization i.e. from 09.11.2016 to 30.12.2016, a notice u/s 142(1) of the Act was issued on 22.01.2018. The appellant had not complied with the said notice issued u/s 142(1) of the Act. Based on this information, the assessment was completed by the Assessing Officer vide order dated 21.12.2019 passed u/s 144 of the Act at a total income of Rs.37,67,870/- after making addition on account of unexplained credit of Rs.15,00,000/- u/s 69A r.w.s. 115BBE of the Act.

3. Being aggrieved by the above assessment order, an appeal was filed before the NFAC, who vide impugned order dismissed the appeal of the assessee for non-prosecution.

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

5. I heard the rival submissions and perused the material on record. From perusal of the impugned order, it is not clear that the NFAC had issued the notice of hearing and also there is no proof of service of notice of hearing. In the circumstances, it can be presumed that the NFAC had passed the impugned order without giving a reasonable opportunity of being heard to the appellant to represent the matter before him and this approach of the NFAC is in gross violation of principles of natural justice. 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.

6. In the circumstances, I 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 filed by the assessee stands partly allowed for statistical purposes.

Order pronounced on this 01<sup>st</sup> day of January, 2024.

**Sd/-**  
**(INTURI RAMA RAO)**  
**ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated : 01<sup>st</sup> January, 2024.

*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.