

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

BEFORE SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER
AND
DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.1317/PUN/2023
निर्धारण वर्ष / Assessment Year : 2011-12

Ranjit Ramchandra Jagtap,
A-24, Padmavilas Enclave
Mahadaji Shinde Road,
Wanawadi, Pune – 411040

PAN : ABDPJ4366J

.....अपीलार्थी / Appellant

बनाम / V/s.

ACIT, Circle – 5,
Pune

.....प्रत्यर्थी / Respondent

Assessee by : Shri Suhas P. Bora
Revenue by : Shri M.G. Jasnani

सुनवाई की तारीख / Date of Hearing : 22-12-2023
घोषणा की तारीख / Date of Pronouncement : 11-01-2024

आदेश / ORDER

PER S.S. VISWANETHRA RAVI, JM :

This appeal by the assessee against the order dated 27-09-2023 passed by the Commissioner of Income Tax (Appeals)-11, Pune for assessment year 2011-12.

2. We find this appeal was filed with a delay of 07 days. The assessee filed notarized affidavit dated 04-12-2023 stating that he was in the bonafide impression that the dispute in this appeal was settled out of

Direct Vivad Se Vishwas Scheme, 2020 and no response is required pursuant to the notices received on e-portal. On realizing an appeal requires to be filed against the impugned order, signed documents were sent to his legal consultant and the said legal consultant could not file the appeal in time due to medical emergency. Further, supporting the explanation offered by the assessee through his notarized affidavit, Shri Saukhya Dattatray Lakade, the legal consultant filed notarized affidavit dated 29-11-2023 corroborating the explanation offered by the assessee. The ld. DR argued that there was no bonafide reason showing sufficient cause was made out by the assessee and prayed to reject the delay condonation application.

3. Having heard both the parties, we find the reasons explained by the assessee are bonafide supporting which, we find notarized affidavit filed by the legal consultant, therefore, we find the reasons explained by the assessee are bonafide and the delay caused is neither intentional nor wanton. Therefore, the delay of 07 days, is condoned.

4. On merits the ld. AR, Shri Suhas P. Bora by referring to ground No. 2, submits that the assessee was in confusion that no appeal required to be filed against the present impugned order in view of settlement of dispute out of DTVSV Scheme relating to reassessment order passed u/s. 143(3) r.w.s. 147 of the Act. The ld. AR prayed to afford an opportunity for the assessee, as the assessee realized the additions made in the original assessment passed u/s. 143(3) of the Act requires adjudication by filing relevant evidences in supporting the assessee's contention. The ld. DR reported no objection in remanding the matter to the file of CIT(A).

5. We note, that the AO made additions on account of foreign travel, travelling and conveyance, staff costs and proportionate interest on interest free advances. On perusal of the assessment order which clearly demonstrates that there was no evidence furnished in the assessment proceedings which is evident from para 5 of the assessment order, further, the assessee even did not submit the strength of employees supporting the staff costs in the assessment order which is evident from para 6 of the assessment order. Further, on perusal of the impugned order, the fact remains admitted that there was no response from the assessee in view of confusion arising due to settlement of dispute arising from reassessment order passed u/s. 143(3) r.w.s. 147 of the Act which clearly establishes that there was no compliance by the assessee in the First Appellate proceedings. Further, the CIT(A) proceeded to confirm the order of AO taking into consideration the non-cooperative attitude of the assessee in the assessment proceedings which is evident from para 9 of the impugned order. Admittedly, there was no discussion whatsoever by the CIT(A) on merits as required under sub-section (6) of section 250 of the Act, wherein, a duty cast upon the CIT(A) to dispose off the appeal in writing by stating point for determination and the decision with reasons. We find no adjudication on merits by the CIT(A) which requires, in our opinion, remand of appeal to the file of CIT(A) for his consideration afresh. We note that the ld. AR has undertaken that the assessee is ready to prosecute his case by filing relevant evidences in support of grounds raised in Form No. 35 before the CIT(A) and taking into the said undertaking and in view of the facts and circumstances of the case, we deem it proper to remand the matter to the file of CIT(A) for his fresh consideration. We also make it clear that the assessee shall comply with the notices issued by the CIT(A) without fail, failing which the CIT(A) is directed to dispose off the appeal, in

accordance with the law as contemplated under sub-section (6) of section 250 of the Act. Further, the assessee is liberty to file evidence, if any, in support of his claim. Thus, the grounds raised by the assessee are allowed for statistical purpose.

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

Order pronounced in the open court on 11th January, 2024.

Sd/-
(Dr. Dipak P. Ripote)
ACCOUNTANT MEMBER

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

पुणे / Pune; दिनांक / Dated : 11th January, 2024.
रवि

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-11, Pune.
4. The Pr. CIT (Central), Pune.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच,
पुणे / DR, ITAT, "B" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

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