

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE 'B' BENCHES :: PUNE

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER &
SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER

ITA No.371/PUN/2023
(A.Y. 2013-14)

Rayat Sahakari Sakhar Karkhana Ltd., At post Shewalewadi, Mhaso, Tal. Karad, Dist. Satara (MH)	vs	ITO, Ward-1, Satara.
PAN: AABAR 0241 C		
Appellant		Respondent

Assessee by	:	Shri Hanmant Dattatry Dhavle,CA
Revenue by	:	Shri Sourabh Nayak, Addl. CIT
Date of hearing	:	27/02/2024
Date of pronouncement	:	27/02/2024

ORDER

Per PARTHA SARATHI CHAUDHURY, JM:

This appeal preferred by the assessee emanates from the order of National Faceless Appeal Centre [NFAC], Delhi, dated 31.01.2023 for A.Y.2013-14 as per the grounds of appeal on record.

2. At the very outset, Id.AR of the assessee submitted referring to para 4 of the order of NFAC that though there were sufficient opportunities given to the assessee, but assessee could respond to only one notice of hearing which was on 30/01/2023 and subsequently, the order was passed on 31/01/2023 i.e. immediately the next day. Therefore, Id.AR submitted that technically it is not an *ex-parte* order by NFAC, but there has not been substantive adjudication of rights and liabilities of the parties in this case since the

assessee was not able to provide relevant details/evidences. It was also contended that in the entire order of NFAC, the submissions of the assessee have not been dealt with, specifically and more or less in similar circumstances, the Tribunal in assessee's own case for A.Ys. 2010-11 & 2011-12 in ITA Nos. 414 & 415/PUN/2023 dated 13/06/2023 has remanded the matter to the file of NFAC for *de novo* adjudication. Ld.AR prayed for one final opportunity for representation of the case before the Department in much more substantive manner.

3. Ld.DR could hardly refute these submissions and stated that the order of NFAC is not an *ex-parte* order, but the relevant submissions have been considered. We observe from the facts and the given circumstances that as rightly pointed out by the Id.AR of the assessee that as the last opportunity of hearing given by the NFAC was on 30/01/2023 on which date, the assessee had complied and immediately on the next day i.e. 31/01/2023, the NFAC had passed the order. We observe from the order of NFAC that the submissions of the assessee vis-à-vis facts of the case were not brought out in a speaking order by NFAC, wherein though the process for reaching the said decision by the *quasi* judicial authority has not been specifically brought out in the order passed. We agree with the Id.DR that technically this is not an *ex-parte* order, but given the entire factual matrix, the substantive submissions were not given by the assessee to NFAC and, therefore, the rights and liabilities have to be adjudicated

afresh through proper examination of facts and coming out with a speaking order by NFAC. In view thereof, we set aside the order of NFAC, without going into the merits of the matter, is remanded to its file for *de novo* adjudication complying with the principles of natural justice and at the same time, we direct the assessee that this being the final opportunity, the assessee should represent its case through evidences/documents substantively on merits.

4. As per the aforesaid terms, the appeal of the assessee stands allowed for statistical purposes.

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

Order pronounced in open Court on 27th February, 2024.

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Sd/-
(PARTHA SARATHI CHAUDHURY)
JUDICIAL MEMBER

Dated : 27th February, 2024

vr/-

Copy to :

1. The Appellant.
2. The Respondent.
3. The Pr. CIT concerned.
4. The DR, ITAT, "B" Bench Pune.
5. Guard File.

By Order

// TRUE COPY //

Senior Private Secretary
ITAT, Pune.