

आयकर अपीलीय अधिकरण “एक सदस्य मामला” न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH, PUNE

(Through Virtual Court)

BEFORE SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER
AND
SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.55/PUN/2024
निर्धारण वर्ष / Assessment Year : 2012-13

Mr. Sudhakar Digamber Gond,
Kumtha Colony, Beside M.G. College,
A/p. Ahmedpur, Dist.-Latur-413515

PAN : BBQPG5600N

.....अपीलार्थी / Appellant

बनाम / V/s.

Income Tax Officer,
Ward – 2, Latur

.....प्रत्यर्थी / Respondent

Assessee by : Shri Bhuvnesh Kankani
Revenue by : Shri Kalpesh Rupavatiya

सुनवाई की तारीख / Date of Hearing : 09-02-2024
घोषणा की तारीख / Date of Pronouncement : 20-03-2024

आदेश / ORDER

PER S.S. VISWANETHRA RAVI, JM :

This appeal by the assessee against the order dated 07-12-2023 passed by the Commissioner of Income Tax/Addl./JCIT (A)-1, Jaipur for assessment year 2012-13.

2. Brief facts relating to the case are that the assessee is an individual and no return of income filed within the prescribed time provided u/s. 139

of the Act. The AO gathered information, that the assessee had made certain cash deposits in State Bank of India to an extent of Rs.10,01,000/- . Since, no return of income was filed, the AO issued notice u/s. 148 of the Act. Further, a notice u/s. 142(1) of the Act was also issued. According to the AO, the said notices were served on the assessee, but no return of income filed. The AO proceeded to complete the assessment to his best judgment inter alia making addition u/s. 69A of the Act. Aggrieved by the same, the assessee preferred an appeal before the First Appellate Authority. According to the CIT(A) that the said appeal was filed with a delay of more than two months which is evident from para 4.3 of the impugned order. The CIT(A) discussed the issue in paras 4.4 to 4.8 and held the appeal of the assessee is not maintainable which is evident from para 4.7 of the impugned order, but discussed the issue of addition made u/s. 69A of the Act and confirmed the order of AO in making the said addition. The ld. AR drew our attention to notarized affidavit dated 06-02-2024 and reiterated the reasons given in explaining the sufficient cause. On perusal of the same, we note that the assessee was diagnosed with bronchitis, owing to which the appeal could not be filed in time. We find the impugned order is not justified by holding the appeal of the assessee is not maintainable and deciding the issue of addition u/s. 69A of the Act by recording reasons in confirming the order of AO in making addition u/s. 69A of the Act, in our opinion, the CIT/Addl./JCIT (A) should have restrained in confirming the addition made by the AO, having said the appeal is not maintainable, therefore, impugned order is not justified. In view of the same, taking into facts and circumstances of the case and submissions of the ld. AR and ld. DR, we deem it proper to remand the matter to the file of CIT/Addl./JCIT (A) with a direction to admit the appeal

by condoning the delay and adjudicate the grounds afresh raised by the assessee by giving reasonable opportunities to the assessee. The assessee is liberty to file evidences, if any, in support of its claim. Thus, the grounds raised by the assessee are allowed for statistical purpose.

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

Order pronounced in the open court on 20th March, 2024.

Sd/-
(Om Prakash Kant)
ACCOUNTANT MEMBER

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

पुणे / Pune; दिनांक / Dated : 20th March, 2024.
रवि

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT/Addl./JCIT(A)-1, Jaipur.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "एक सदस्य मामला" बेंच, पुणे / DR, ITAT, "SMC" 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