

आयकर अपीलीय अधिकरण "ए" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "A" 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.937/PUN/2023
निर्धारण वर्ष / Assessment Year : 2016-17

Firozali Taherali Chudiwala,
150 Kohinoor Building,
Fatima Nagar, Pune – 411013

PAN : AXTPC1579N

.....अपीलार्थी / Appellant

बनाम / V/s.

Income Tax Officer,
Ward – 14(1), Pune

.....प्रत्यर्थी / Respondent

Assessee by : Shri Virat Doshi
Revenue by : Shri Ramnath P. Murkunde

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 05-07-2023 passed by the National Faceless Appeal Centre ("NFAC"), Delhi for assessment year 2016-17.

2. The assessee raised two grounds of appeal amongst which the only issue emanates for our consideration is as to whether the CIT(A) justified in confirming the order of AO ex-parte of the assessee.

3. Brief facts relating to the issue are that the assessee is an individual and no return of income filed for the year under consideration. According to the AO, as per the data available in the AIMS module under Multiyear NMS (Non filer Management System), the assessee entered into the transactions to an extent of Rs.3,26,90,450/- the details of which are reflected in pages 2 and 3 of the assessment order. In view of the said transactions, by recoding reasons and taking prior approval of the Competent Authority, the AO issued notice u/s. 148 of the Act. No return was filed in response to the said notice u/s. 148 of the Act. Thereafter, a show cause notice issued by giving reasons as reflected in para 3 of the assessment order, in response to which the assessee submitted reply by claiming exemption u/s. 10(38) of the Act. According to the AO no details of bank statement filed supporting the investments and accordingly made addition on account of unexplained investments u/s. 69 of the Act, chargeable to tax u/s. 115BBE of the Act vide order dated 29-03-2022 passed u/s. 147 r.w.s. 144/144B of the Act. Having aggrieved by the order of AO, the assessee preferred an appeal before the NFAC, Delhi. We note that the NFAC, Delhi issued two notices, but no response ever filed by the assessee. Thus, the NFAC, Delhi proceeded to confirm the order of AO in the absence of assessee.

4. As discussed above, there was no discussion made by the NFAC, Delhi, on merits, but however, simply confirmed the order of AO ex-parte of the assessee which is against the statutory provisions contemplated under sub-section (6) of section 250 of the Act. The sub-section (6) of section 250 of the Act explains that the order of Commissioner (Appeal) shall be in writing stating points for determination, the decision thereon and the reasons for the decision in disposing of the appeal, but however, no discussion whatsoever made by the NFAC, Delhi as it is evident from the

impugned order. Since, the addition made u/s. 69 of the Act, in our opinion, assistance of assessee is required, therefore, we deem it proper to remand the issue to the file of NFAC, Delhi for its fresh adjudication. The assessee is liberty to file evidence, if any, in support of its claim. The assessee shall comply with the notices issued by the NFAC, Delhi, in case of any failure, NFAC, Delhi is liberty to dispose off the appeal of assessee as contemplated under sub-section (6) of section 250 of the Act. Thus, the grounds raised by the assessee are allowed for statistical purpose.

5. 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 Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच,
पुणे / DR, ITAT, "A" 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