

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

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.509/PUN/2024

निर्धारण वर्ष / Assessment Year : 2017-18

Shri Kiran Yashwant Latkar, B-702, Meghdoot CHS Ltd., Behind Hotel Prithvi, Happy Colony, Pune 411038 Maharashtra PAN : ABDPL6322L	Vs.	ITO, Ward-13(1), Pune
Appellant		Respondent

Assessee by : Shri G.P. Mehta  
Revenue by : Shri Arvind Desai

Date of hearing : 18.04.2024  
Date of pronouncement : 19.04.2024

**आदेश / ORDER**

**PER INTURI RAMA RAO, AM:**

This is an appeal filed by the assessee directed against the order of the Addl. JCIT(A)-3, Delhi dated 19.01.2024 for the assessment year 2017-18.

2. Brief facts of the case are that the appellant is an individual who filed the return of income for the A.Y. 2017-18 on 13.07.2017 declaring income of Rs.17,57,980/-. Thereafter, the appellant filed revised return on 28.07.2019 declaring same income. The case was selected for scrutiny under CASS and statutory notice

u/s.143(2) was issued. The Assessing Officer observed that the appellant received total gross salary of Rs.26,93,166/- as against Rs.25,16,539/- shown in Form 16. Against the said return of income, the assessment was completed by the AO vide order dated 12.12.2019 adding the difference amount of salary of Rs.1,76,627/-, thus determined the total income of the appellant at Rs.24,23,520/-.

3. Being aggrieved by the above assessment, an appeal was filed before the CIT(A) who vide impugned order has confirmed the action of the AO for non-prosecution.

4. The Id. Authorised Representative submits that the appellant could not cause any appearance before the CIT(A) and the same was beyond his control. He therefore prayed to grant one more opportunity to the appellant to represent his case before the CIT(A) effectively.

5. Heard the rival submissions and perused the relevant material on record. I find that the approach of the Id.CIT(A) is totally unreasonable and unjustified. In the present case, the CIT(A) fell in serious error by not adjudicating the issue in appeal on merits. The settled position of law mandates the CIT(A) to dispose of the appeal by adjudicating the issue raised in appeal on merits. The

findings of the CIT(A) are not based on the material on record, which means that the CIT(A) had not gone into the merits of the issue in appeal. Therefore, considering the facts in entirety, I vacate the finding of the CIT(A). In the circumstances, I remand the matter back to the file of the CIT(A) and direct to dispose of the appeal on merits in accordance with law after affording due opportunity of being heard to the appellant.

6. In the result, the appeal of the assessee stands partly allowed for statistical purposes.

Order pronounced on this 19<sup>th</sup> day of April, 2024.

Sd/-  
(INTURI RAMA RAO)  
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 19<sup>th</sup> April, 2024.  
Satish

**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.