

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

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.138/PUN/2024
निर्धारण वर्ष / Assessment Year : 2019-20

Mrs. Rohini Gaurishankar Kalyani, 221D, Parvati Niwas, Yerwada Road, Kalyani Nagar, Pune- 411006. PAN : ABGPK1583K	Vs.	ACIT, Circle-7, Pune.
Appellant		Respondent

Assessee by : None
Revenue by : Shri A. K. Mahala

Date of hearing : 22.04.2024
Date of pronouncement : 08.05.2024

आदेश / ORDER

PER VINAY BHAMORE, JM:

This appeal filed by the assessee is directed against the order dated 27.11.2023 passed by Ld CIT(A)/NFAC for the assessment year 2019-20.

2. The appellant has raised the following grounds of appeal :-

"1. *The learned Commissioner of Income Tax Appeals erred on facts and in law in levying penalty of Rs.1,40,460 u/s 270A of the Act on account of alleged under reporting of Income by the assessee without appreciating the facts as well as the law in this regard.*

2. *The Appellant Craves leave to add, alter, delete or substitute all or any of the above grounds of appeal.”*

3. Brief facts of the case are that the appellant assessee is an individual & furnished her return of income disclosing total income of Rs.51,43,790/-. The case was selected for scrutiny & assessment order dated 20-09-2021 was passed *ex-parte* u/s 144 of the IT Act by making disallowance of Rs.1,21,911/- towards foreign travel expenses being personal in nature. Penalty u/s 270A was also initiated on the basis of this disallowance for under reported income in consequence to misreporting. The AO issued show cause notices u/s 270A of the IT Act on various occasions but the assessee remained absent & therefore the AO vide order dated 15-03-2022 imposed penalty u/s 270A(8) of the IT Act of Rs.1,40,460/- which is 200% of Rs.70,230/- (the tax payable in respect of under reported income) for under reporting of income in consequence of misreporting. The assessee furnished appeal before LD CIT(A)/NFAC who vide order dated 27-11-2023 dismissed the appeal of the assessee by observing as under :-

“4.7 Further, it is noted that it was only through the scrupulous scrutiny assessment proceedings that the latent misreporting and consequential underreporting of the tax liability came to light. It is imperative to underscore that, had the appellant's case evaded the

meticulous scrutiny it underwent, it would have paved the way for an unambiguous revenue diminution for the exchequer. The appellant's obligation is unequivocal: they cannot manipulate the circumstances to diminish their tax liability through the concealment of material facts or income. In light of the aforementioned legal principles and the intricacies of this case, the grounds of appeal No.1 is dismissed.”

4. Aggrieved by the order dated 27-11-2023 passed by LD CIT(A)/NFAC the assessee is in appeal before this Tribunal.

5. When the present appeal was called for hearing, none appeared on behalf of the assessee. Therefore, after hearing LD DR, we proceed to dispose off this appeal.

6. The LD DR supported the order passed by LD CIT(A)/NFAC.

7. We have heard learned DR & perused the material available on record. We find that the quantum appeal against the 143(3) assessment on the basis of which penalty u/s 270A was initiated had been partly allowed by remand to LD CIT(A)/NFAC by a coordinate bench of this Tribunal vide order dated 07-05-2024. In the light of decision dated 07-05-2024 of coordinate bench in the quantum case of assessee herself, we deem it proper to remand the matter back to the file of LD CIT(A)/NFAC to consider the matter of penalty u/s 270A of the IT Act afresh. We therefore set-a-side the impugned first appellate order & remand the matter back to the

file of LD CIT(A)/NFAC for fresh decision in the matter of penalty u/s 270A of the IT act, after providing reasonable opportunity of being heard to the appellant assessee.

8. In the result, the appeal filed by the appellant assessee stands allowed for statistical purpose.

Order pronounced in the open Court on 08th day of May, 2024.

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 08th May, 2024.

Sujeet

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, "B" बेंच, पुणे / DR, ITAT, "B" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.