

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

BEFORE SHRI S.S.GODARA, JUDICIAL MEMBER  
AND  
SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.205/PUN/2024  
निर्धारण वर्ष Assessment Year : 2013-14

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|---|-----|------------|
| Mahesh Vijay Dharmapurkar,<br>Dhamapur Malvan,<br>Sindhurg 416 605<br>Maharashtra<br>PAN : ATFPD8462R | Vs. | ITO, Kudal |
| Appellant   |     | Respondent |

Assessee by : None  
Revenue by : Smt. Deepa Sanjay Hiray  
Date of hearing : 10.05.2024  
Date of pronouncement : 14.05.2024

**आदेश / ORDER**

**PER INTURI RAMA RAO, AM:**

This is an appeal filed by the assessee directed against the order of National Faceless Appeal Centre, Delhi dated 26.01.2024 for the assessment year 2013-14.

2. Briefly, the facts of the case are that the appellant is an individual and no return of income was filed under the provisions of section 139(1) of the Act. The case was reopened by way of notice u/s.148 of the Act. The Assessing Officer (AO), on the basis of information available with him, noticed that the assessee had

purchased an immovable property at Rs.35,00,000/- on 25.04.2012 and sold it for Rs.85,28,000/- on 20.12.2012. In the absence of any compliances from the assessee, the AO vide his order u/s.147 r.w.s.144 dated 31.08.2021 made addition of Rs.50,28,000/- treating the same as unexplained source of investment u/s.69 of the Act.

3. Being aggrieved by the above assessment order, an appeal was before the CIT(A)/NFAC with a delay of 179 days. The ld. CIT(A) dismissed the appeal *in limine* without condoning the delay.

4. Being aggrieved, the appellant is in appeal before this Tribunal in the present appeal.

5. When the appeal was called on, none appeared on behalf of the appellant despite due service of notice of hearing. After hearing the ld. DR and perusing the material on record, we proceed to dispose of the appeal *ex parte* qua the appellant.

6. Heard the ld. DR and perused the material on record. The assessee in the written submissions filed before the CIT(A)/NFAC had stated that the tax consultant did not pursue his case despite furnishing relevant documents. Failure of the tax consultant resulted in passing of the *ex parte* orders. Therefore, the assessee prayed that delay in filing be condoned as the same was not

intentional. It is an admitted position that the CIT(A)/NFAC had dismissed the appeal of the appellant *in limine* without condoning the delay. He did not delve into the merits of the issue. In our considered opinion, considering the submissions filed before the CIT(A)/NFAC, the CIT(A)/NFAC ought to have condoned the delay. In the case of *Collector Land Acquisition Vs. MST Katiji (1987) 167 ITR 471 (SC)* the Hon'ble Supreme Court held that all such technical aspects must make a way for the cause of substantial justice. We therefore condone the delay of 179 days in filing the appeal. In the circumstances, we are of the considered opinion that it is a fit case for remand of the matter to the file of the CIT(A)/NFAC for *de novo* adjudication of the issues on merit in accordance with law after affording reasonable opportunity of hearing to the assessee.

7. In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced on this 14<sup>th</sup> day of May, 2024.

**Sd/-**  
**(S.S. GODARA)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(INTURI RAMA RAO)**  
**ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated : 14<sup>th</sup> May, 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, "A" बेंच,  
पुणे / DR, ITAT, A" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

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