

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

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER
AND
Ms. ASTHA CHANDRA, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.754/PUN/2024

निर्धारण वर्ष Assessment Year : 2018-19

Hotel Radhika, 1795, E-Ward, 2 nd Lane, Rajarampuri, Kolhapur – 416008 Maharashtra PAN : AAAFH9222K	Vs.	ITO, Ward-2(1), Kolhapur
Appellant		Respondent

Assessee by : Shri Sarang Gudhate

Revenue by : Shri R.Y. Balawade

Date of hearing : 31.05.2024

Date of pronouncement : 31.05.2024

आदेश / ORDER

PER INTURI RAMA RAO, AM:

This is an appeal filed by the assessee directed against the order of National Faceless Appeal Centre (NFAC), Delhi dated 18.02.2024 for the assessment year 2018-19.

2. Briefly, the facts of the case are that the appellant is a Partnership firm. The Return of Income for the A.Y. 2018-19 was filed on 29.10.2018 declaring income of Rs.2,37,630/-. Against the said return of income, the assessment was completed by the Assessing Officer (AO)

at a total income of Rs.11,11,618/-. While doing so, the AO made the disallowance of interest and remuneration paid to partners of Rs.7,95,058/- and also made addition of Rs.78,930/, being interest on income-tax refund.

3. Being aggrieved, an appeal was filed before the CIT(A)/NFAC who vide impugned order dismissed the appeal *in limine* without condoning the delay.

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

5. We heard the rival submissions and carefully perused the relevant material on record. At the outset, we find that the CIT(A)/NFAC had considered wrong facts of the case which were not relevant to the appellant firm. On mere reading of the contents of Para 3.4 of the impugned order, it would be evident that CIT(A)/NFAC presumed that it is an appeal against the order passed u/s.272A(1)(a) of the Income-tax Act, 1961, whereas the appeal was filed against the order passed u/s.143(3) of the Act. Furthermore, it is seen that there was delay of 370 days in presenting the appeal before the CIT(A)/NFAC. The CIT(A)/NFAC, had not brought on record the actual date of service of the assessment order on the appellant firm. Eventually, the CIT(A)/NFAC did not condone the delay. In the circumstances, we are of the considered opinion that the matter requires remission to the file of

CIT(A)/NFAC for *denovo* disposal of the appeal in accordance with law after affording due opportunity of hearing to the appellant firm.

6. In the result, the appeal filed by the assessee stands partly allowed for statistical purpose.

Order pronounced on this 31st day of May, 2024.

Sd/-
(ASTHA CHANDRA)
JUDICIAL MEMBER

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 31st 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, "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