

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

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.810/PUN/2024

निर्धारण वर्ष / Assessment Year : 2009-10

M/s. Shivam Construction Co., 5, At Nhavda Phata, MIDC, Taloja, Panvel – 410 208 Maharashtra PAN : AAEFM8600L	Vs.	DCIT, Panvel Circle, Panvel
Appellant		Respondent

Assessee by : Shri Hari Krishan
Revenue by : Shri Abdesh Kumar Jha
Date of hearing : 10.06.2024
Date of pronouncement : 10.06.2024

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 28.02.2023 for the assessment year 2009-10.

2. Brief facts of the case are as under :

The appellant is a company engaged in the business of Construction. The Return of Income for the A.Y. 2009-10 was filed on 27.09.2019 disclosing total income of Rs.15,15,600/-. No scrutiny proceedings were taken up. Subsequently, based on the information obtained from the Sales Tax Department of Govt. of Maharashtra that the appellant had obtained bogus purchased bills to the extent of Rs.4,26,702/- from one entry provider namely M/s. Adigin, the Assessing Officer formed opinion that income escaped assessment to tax. Accordingly, a notice u/s.148 was issued to the appellant on

22.03.2013. The said remained uncomplied with. Even, there was no compliance to the notices issued u/s.142(1) of the Act. In the circumstances, the AO was constrained to complete the assessment u/s.144 vide order dated 12.03.2014 after disallowing the said bogus purchases of Rs.4,26,702/-.

3. Against the said assessment order, an appeal was preferred before the CIT(A), Thane who vide order dated 03.10.2017 dismissed the appeal. On further appeal before the ITAT, Pune, the Tribunal restored the matter to the file of AO for afresh adjudication. Pursuant to the order of Tribunal, the assessment was completed vide order dated 13.11.2019 passed u/s.143(3) r.w.s.254 reiterating the addition made in the original assessment order for the failure of the assessee to comply with the hearing notices.

4. Being aggrieved, an appeal was filed before the CIT(A)/NFAC who vide impugned order confirmed the addition for non-prosecution, accordingly dismissed the appeal.

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

6. When the matter was called on Shri Hari Krishan, Authorised Representative had filed the petition seeking adjournment on the ground that relevant documents representing the matter are under preparation. On careful consideration of the facts in the instant case as well as the adjournment petition, I am of the considered opinion that it is not a fit case for adjourning the matter. Accordingly, the appeal is being disposed of after hearing the Id. Sr. DR.

7. In the instant case, the appellant remained absent in the initial assessment proceedings before the AO as well as before the CIT(A)

which led to passing of *ex parte* orders. Even in the remand proceedings by the Tribunal, there was no appearance from the side of appellant either before the AO or before the CIT(A) which also led to passing of *ex parte* orders confirming of the addition. In the light of above, it can be concluded that the appellant is recalcitrant in pursuing the matter.

8. Further more, I find that the appeal is time barred by 356 days before the Tribunal. The appellant had filed a condonation petition. I have gone through the averments made in the petition. On mere perusal of the said condonation petition, it would be clear that the petition contains so many corrections as to the date on which the appeal was required to be filed; actual date of filing the appeal, and the number of days of delay in filing the appeal. These corrections were neither ratified by the deponent nor the condonation petition was filed in the form of an Affidavit. Moreover, from the averments, it is clear that except *ipse dixit* averments that there was no gross negligence or malafides, reasons for the delay were not explained at all. In the circumstances, I am of the considered opinion that there was no sufficient and reasonable cause for delay in filing the appeal before the Tribunal. Therefore, it is not a fit case for condonation of delay and the appeal is dismissed *in limine*.

9. In the result, the appeal filed by the assessee is dismissed.

Order pronounced on this 10th day of June, 2024.

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 10th June, 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.