

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

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.706/PUN/2024

निर्धारण वर्ष /Assessment Year : 2017-18

Nayana Diwakar Nimkar, 1025-A, Gokhale Road, Shivaji Nagar, Pune 411 016 Maharashtra PAN : ABMPN7535L	Vs.	DCIT, Circle-13, Pune
Appellant		Respondent

Assessee by : Shri D.R. Barve
Revenue by : Shri Sandeep P. Sathe

Date of hearing : 24.06.2024
Date of pronouncement : 24.06.2024

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 09.02.2024 for the assessment year 2017-18.

2. Briefly, the facts of the case are as under :

The appellant is an individual deriving income from Salary, House Property, Business/Profession, Capital Gain and Income from Other Sources. The Return of Income for the A.Y. 2017-18 was filed on 05.08.2017 declaring total income of Rs.2,14,07,360/-. Against the said

return of income, the assessment was completed by the Assessing Officer (AO) vide order dated 31.12.2019 at a total income of Rs.2,36,75,693/-. While doing so, the AO disallowed the expenses amounting to Rs.22,68,333/- shown by the assessee as co-seller on account of sale of property at Mumbai.

3. Aggrieved by the above assessment order, an appeal was filed before the CIT(A)/NFAC who after reproducing the remand report of the AO chose to dismiss the appeal *in limine* without discussing anything on merits.

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

5. We heard the rival submissions and perused the material on record. We find the ld. CIT(A) without discussing anything on merits of the controversy of the addition made on account of sale of property, simply dismissed the appeal *in limine*, which is contrary to settled position of law. It is a trite law that the CIT(A) should have dealt with the merits of the issues in appeal, even in the case of an *ex-parte* order. In this regard, reference is being made to a decision of the Hon'ble Bombay High Court in the case of *Pr.CIT(Central) Vs. Premkumar Arjundas Luthra (HUF) Bombay*/[2017] 297 CTR 614 (Bombay) wherein it was held that CIT(A) is obliged to dispose of the appeal on

merits. Therefore, we deem it appropriate to remit the matter to the file of CIT(A)/NFAC for *de novo* disposal of the issues in accordance with law. We order accordingly.

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

Order pronounced on this 24th day of June, 2024.

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 24th 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, "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