

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.580/PUN/2024
निर्धारण वर्ष / Assessment Year : 2017-18

Prakash Shripal Chavan, 1 Stand Road, Samdoli Sangli, Sangli- 416416. PAN : AJLPC0555E	Vs.	ITO, Ward-1, Sangli.
Appellant		Respondent

Assessee by : Smt. Deepa Khare
Revenue by : Shri Akhilesh Srivastava

Date of hearing : 03.07.2024
Date of pronouncement : 12.07.2024

आदेश / ORDER

PER VINAY BHAMORE, JM:

This appeal filed by the assessee is directed against the order dated 13.02.2024 passed by Ld CIT(A)/NFAC for the assessment year 2017-18.

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

“1. The ld. CIT(A) erred in law and on facts in dismissing appeal by not condoning the delay when there was sufficient cause for the delay.

2. The appellant prays that the delay may kindly be condoned and the appeal may kindly be decided on merits.”

3. The facts, in brief, are that the assessee is an individual and no return of income under the provisions of section 139 of the IT Act

was filed for the assessment year under consideration. A notice u/s 148 was issued on 29.03.2021 and duly served upon the assessee. The assessee did not comply with the said notice. Thereafter, statutory notice u/s 142(1) of the IT Act was issued on 24.03.2021, but the assessee failed to comply with the said notice. As per the details available with the Department, the Assessing Officer found that the assessee has deposited a cash of Rs.1,33,43,600/- in his current bank account and the assessee has not offered the said amount for tax. Since the assessee has not complied with any statutory notices as well as not explained the source for the said cash deposits, the Assessing Officer made addition of Rs.1,33,43,600/- treating the same as unexplained money u/s 69A of the IT Act vide assessment order dated 31.03.2022 passed u/s 147 r.w.s. 144 of the IT Act.

4. Being aggrieved with the above action of the Assessing Officer, first appeal was filed belatedly before the Id. CIT(A)/NFAC. The Id. CIT(A)/NFAC after referring the various decisions dismissed the appeal of the assessee on account of delay in filing of the first appeal.

5. Being aggrieved with the decision of the Id. CIT(A)/NFAC, the assessee is in appeal before us.

6. LD AR submitted before us that LD CIT(A)/NFAC did not follow the principles of natural justice. It was further submitted that LD CIT(A)/NFAC ought to have condoned the delay in filing the first appeal. It was clarified that the *ex-parte* assessment order was passed on 31-03-2022 i.e. during Covid-19 period & the limitation to file appeals was extended by Hon'ble Supreme Court upto 30-05-2022, the appeal was filed on 21-10-2022, therefore the appeal was filed with a delay of 142 days only & not with seven months delay as has been mentioned by LD CIT(A)/NFAC. It appears that LD CIT(A)/NFAC has not even allowed the benefit of 30 days time allotted by the statute to file first appeal. It was also submitted that the assessee was not availing services of any tax consultant & being a vegetable trader was unknown with the procedure & time limits. As soon as he was advised to file an appeal against the impugned order he immediately filed the same. After receiving the notice from LD CIT(A)/NFAC a written submission requesting to condone the delay was furnished before him which was not accepted & the appeal was dismissed without condoning the delay being filed beyond the prescribed time limit. Under the above facts & in the circumstances of the case it was prayed before the bench to set-aside the order passed by LD

CIT(A)/NFAC & further requested to direct him to admit the appeal for adjudication on merits of the case after hearing the assessee.

7. LD DR supported the orders passed by subordinate authorities & requested to confirm the same.

8. We have heard LD counsels from both the sides & perused the material available on the record. We find that the assessee is a vegetable trader & commission agent. The notices for assessment were issued during Covid-19 period & the *ex-parte* assessment order was also passed during Covid-19 period. While calculating the period of delay, the extension of period of limitation granted by Hon'ble Supreme Court was not allowed & even 30 days time provided by the statute was also not excluded & the delay of seven months was calculated. This approach of LD CIT(A)/NFAC is unwarranted & unjustified. As per the calculation mentioned above, there appears to be a delay of only 142 days in filing the first appeal & in our considered opinion looking to the Covid-19 pandemic situation, the delay should have been condoned by LD CIT(A)/NFAC. Therefore in the interest of justice we deem it appropriate to set-aside the order passed by LD CIT(A)/NFAC with a direction to condone the delay in filing of the appeal & admit the appeal for adjudication on merits of the case after providing

reasonable opportunity of hearing to the assessee. LD CIT(A)/NFAC shall pass the order as per facts & law after providing reasonable opportunity of being heard to the assessee. The assessee is also hereby directed to respond to the notice issued by ld. CIT(A)/NFAC and submit the requisite details on the appointed date without seeking any adjournment under any pretext, failing which ld. CIT(A)/NFAC is at liberty to pass appropriate order as per law. We hold and direct accordingly. Thus, the ground of appeal raised by the assessee is allowed.

9. In the result, the appeal filed by the assessee stands allowed for statistical purposes.

Order pronounced in the open Court on 12th day of July, 2024.

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 12th July, 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.