



BEFORE HON'BLE SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER

AND

SHRI VINAY BHAMORE, JUDICIAL MEMBER

ITA No. 941/PUN/2024

Assessment Year : 2017-18

Mr Baban Tukaram Khade,
At Post Village Jakhori,
Dist Nashik – 422 102.
PAN: DKOPK4540Q

..... *Appellant*

V/s

The Income Tax Officer,
Ward -3(1), Nashik.

..... *Respondent*

Appearances

Assessee by : Mr Sanket Joshi [Ld. AR']

Revenue by : Mr Umesh Phade ['Ld. DR']

Date of conclusive Hearing : 01/08/2024

Date of Pronouncement : 02/08/2024

ORDER

PER G. D. PADMAHSHALI, AM;

This appeal of the assessee challenges the DIN & Order No. ITBA/NFAC/S/250/2023-24/1059661545(1) dt. 12/01/2024 passed u/s 250 of the Income-tax Act, 1961 ['the Act' hereinafter] by the National Faceless Appeal Centre ['NFAC' hereinafter] which in turn arisen out of order of assessment passed u/s 143(3) of the Act by the Income Tax Officer, Ward-1(3), Nashik ['AO' hereinafter] for assessment year 2017-18 ['AY' hereinafter];

2. In the course of hybrid hearing, the Ld. AR Mr Joshi without adverting to facts & merits of the case, at the outset has candidly invited our attention to the impugned order and submitted that, the impugned first appellate order 12/01/2024 was communicated to the assessee online through the web portal.



Though this impugned order bears the DIN number but it does neither signed digitally nor physically by the Ld. NFAC. An unsigned order ceases to give any cause of action to both the rival parties. However the assessee should not be saddled with liability for the fault of Revenue. Considering the facts holistically, the impugned order if treated as non-est then to meet the justice, the matter may be remanded to the file of Ld. NFAC with the direction to re-adjudicate the issue after giving opportunity to the appellant assessee. *Per contra*, solidifying the facts the Ld. DR did express his no objecting for remand.

3. Heard rival submission on former limited issue and subject to the provisions of rule 18 of Income Tax Appellate Tribunal Rules, 1963 [for short 'ITAT, Rules'] perused the material placed on records and considered the facts in the light of settled position of law.

4. We note that, the provisions of section 282A of the Act prescribes that a notice or any other document related to income tax to be issued under the income tax law by any authorised Income-tax authority, such notice or document shall require to be signed by the concerned issuing Income Tax authority and they further shall be issued in paper form or communicated in electronic form as prescribed u/r 127A of IT Rules, 1962. Therefore, any notice or other document such as summon, order etc., issued inconsonance with the provisions of section 282A of the Act r.w.r. 127A of IT Rules, 1962 renders it irregular and ceases to have any effect in law. This view finds fortified in the matter of '*Ramani Suchit Malushte Vs. UOI*' [WP No 9331 of 2022], wherein the Hon'ble Jurisdictional



Bombay High Court while dealing with electronic communication of order categorically held that; ‘*unless digital signature is put by the issuing authority on the order, that order will have no effect in the eyes of law*’.

5. In the instant case admittedly the impugned order was communicated electronically does bear no digital signature of the first appellate authority who adjudicated the appeal, hence in view of the former judicial precedent it ceased to have any effect in the eyes of law. In effect giving no rights or creating no liability to either party, thus the entitlement to prosecute the appeal. However, to avoid the multiplicity of litigation, we deem it fit to set-aside the impugned order and remand the matter back to the Ld. NFAC at the stage of institution of appeal before it with a direction to adjudicate the issue *de-novo* in accordance with law preferably in three effective opportunities of hearing to the appellant assessee and pass a speaking order in terms of section 250(6) of the Act and non-compliance with the provisions of section 282A of the Act.

6. The assessee’s appeal in result ALLOWED FOR STATISTICAL PURPOSES

In terms of rule 34 of ITAT Rules, the order pronounced in the open court on this Friday, 02nd August, 2024.

-S/d-

VINAY BHAMORE
JUDICIAL MEMBER

-S/d-

G. D. PADMAHALI
ACCOUNTANT MEMBER

पुणे / PUNE ; दिनांक / Dated : 02nd August, 2024.

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.

2. प्रत्यर्थी / The Respondent.

3. The Pr. CIT Concerned.

4. The CIT(A)/NFAC Concerned.

5. DR, ITAT, ‘SMC’ Bench, Pune

6. गार्डफ़ाइल / Guard File.

आदेशानुसार / By Order

वरिष्ठ निजी सचिव / Sr. Private Secretary

आयकर अपीलिय न्यायाधिकरण, पुणे / ITAT, Pune.