

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

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.1137/PUN/2024

निर्धारण वर्ष / Assessment Year : 2016-17

Anudita Jawahar Datta, 30, Somsukh Bungalow, Mayur Colony, Karve Road, Pune 411 038, Maharashtra PAN : ABIPK9708L	Vs.	Income Tax Officer, Ward-3(3), Pune
Appellant		Respondent

Assessee by : Shri Naimish Dixit
Revenue by : Shri Rajesh Gawali

Date of hearing : 13.08.2024
Date of pronouncement : 13.08.2024

आदेश / ORDER

PER INTURI RAMA RAO, AM:

This is an appeal filed by the assessee directed against the order of National Faceless Appeal Centre, Delhi dated 10.05.2023 for the assessment year 2016-17.

2. At the outset, I find that the appeal is time barred by 316 days in filing the appeal before the Tribunal. The appellant filed condonation petition stating that the appellant did not receive the notices of hearing either on the official e-mail id or on the e-mail id mentioned in Form No.35. The notices were sent on a different email id. Further, the appellant was not in the practice of checking the e-mail on regular basis. Therefore, the appellant was unaware of the proceedings. It was only on the last week of April, 2024 that the appellant came to know

about passing of the order by NFAC on 10.05.2023. There was reasonable cause for not filing the appeal within the time prescribed under the Act. The delay of 316 days occurred in filing the appeal was due to genuine reasons. It is therefore prayed to condone the delay of 316 days.

3. I have gone through the averments made in the condonation petition and find that the appellant was prevented by sufficient and reasonable cause in presenting the appeal within the prescribed time limit. Therefore, I am of the opinion that it is a fit case to condone the delay of 316 days in filing the appeal. I therefore condone the delay of 316 days and proceed for adjudication of the appeal on merits.

4. Brief facts of the case are as under :

The appellant is an individual, filed the Return of Income for the A.Y. 2016-17 on 13.12.2016 disclosing total income of Rs.5,66,770/-. The case was selected for Complete Scrutiny under CASS. Statutory notices u/s.143(2) and 142(1) were issued to the appellant to which there was no compliance from the side of the appellant. Based on the information Income-tax return filed by the appellant, the Assessing Officer noticed that the appellant had shown purchases of Rs.1,61,41,395/- whereas as per the ITS data, the total purchases are Rs.1,39,21,951/-, resulting in difference of Rs.22,19,144/-. On failure of the appellant to comply with statutory notices/show cause notice etc., the Assessing Officer vide order dated 24.12.2018 u/s.144 of the Act did not accept the purchases shown by the appellant in his return, disallowed Rs.22,19,144/- (1,61,41,395/- – 1,39,21,395/-) as unsubstantiated.

5. Being aggrieved, the appellant preferred appeal before the CIT(A)/NFAC who vide impugned order confirmed the action of the AO.

6. Being aggrieved, the appellant is in appeal before the Tribunal.

7. The Id. Authorized Representative for the assessee submits that the case of the appellant case could not be represented before the authorities as the notices were served neither served on the official e-mail id mentioned on Income-tax Portal nor on the e-mail id mentioned in Form No.35. The notices were sent on a different e-mail id and therefore, the appellant was not aware of the proceedings before the authorities. In the circumstances, it is prayed for granting one more opportunity to the appellant to substantiate the difference in the purchases made.

8. On the other hand, the Id. DR vehemently opposed the submissions advanced on behalf of the appellant and submits that no interference by this Tribunal is called for.

9. I heard the rival submissions and perused the material on record. Admittedly, the assessment was completed by the Assessing Officer u/s.144 of the Act. The CIT(A)/NFAC also passed the order *ex parte* dismissing the appeal of the appellant. It is the contention of the appellant that he was unaware of the notices sent by the Department as they were sent on a different e-mail other than official/e-mail mentioned in Form No.35. In the peculiar facts and circumstances of the present case, I am of the considered opinion that in the interest of justice, the matter requires a remand to the file of Assessing Officer for framing the assessment afresh after giving due opportunity to the appellant. Needless to say, the appellant is at liberty to adduce any evidence in support of the purchases. I order accordingly.

10. In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced on this 13th day of August, 2024.

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 13th August, 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.