

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

BEFORE SHRI PARTHA SARATHI CHAUDHURY, JM

ITA No. 272/RAN/2023

(Assessment Year: 2015-16)

Shyama Prasad Bhattacharjee

H.No-4, Kamini Road,

Parsudih, Promathanagar,

Jameshedpur-831002

Jharkhand

(Appellant)

Vs.

Income Tax Officer

Circuit House, Ward 3(4),

Jharkhand-831001

(Respondent)

PAN No. AGYPB2034K

Assessee by : None

Revenue by : Shri Pranob Kumar Koley, DR

Date of hearing: 02.09.2024

Date of pronouncement : 03.09.2024

ORDER

PER PARTHA SARATHI CHAUDHURY, JM:

01. This appeal preferred by the assessee emanates from the order of National Faceless Appeal Centre, Delhi [the learned CIT (A)] vide order dated 22nd September, 2023, as per grounds of appeal on record.
02. At the time of hearing, none appeared for the assessee. However, an adjournment petition has been placed on record. But submissions of the learned Departmental Representative are recorded and the case heard and discussed on merits.
03. That it is observed from the order of NFAC, that in spite of several opportunities given to the assessee there was no compliance by the assessee before the First Appellate

Authority. This fact is evident from Para 6 and 7 of the order of NFAC.

04. In this regard, it may be mentioned that in such circumstances, the view taken by this Bench is consistent and in such ex-parte order passed by the learned CIT (A), one final opportunity is provided to the assessee for representation of his matter before the said statutory authority. Therefore, the adjournment of the assessee is rejected and the case had been taken up for hearing. This is also in compliance with the directions of the Hon'ble Supreme Court in the case of Ishwarlal mali rathod Vs. Gopal & Ors SLP (Civil) Nos. 14117-14118 of 2021 order dt. 20.09.2021.
05. I have considered the facts and circumstances in this case, the submissions of the learned Departmental Representative and have given considerable thought with regard to the consistent view taken by this Bench in the similar facts and circumstances. There is no doubt that reasonable opportunity has been provided to the assessee by the National Faceless Appeal Centre, Delhi [the learned CIT (A)]. However, there was no compliance because of which the NFAC was not in a position to adjudicate the matter on merits considering substantively all the evidences / relevant details of this case. The laws pertaining to welfare legislations with whose ambit even Income Tax Act is also considered, it means that wherever possible the interpretation of the facts and circumstances pertaining to a particular case has to be in a way benefiting the assessee, tax payer, wherever possible



within the ambit of law. There may be a possibility regarding the non-compliance which may not have been deliberate but was due to circumstances beyond the control of the assessee and this benefit of doubt should be provided to the tax payer, assessee. I am therefore of the considered view, following the principles of consistency and natural justice in these facts and circumstances one final opportunity should be given to the assessee to represent his matter substantially on merits before the NFAC, I order accordingly. In view thereof, the order of the NFAC is set aside and is remanded back to its file for *denovo* adjudication as per law and at the same time, the assessee is directed that this being the final opportunity provided, he must represent his case with all relevant details/ documents and ensure substantive representation on merits. The NFAC shall comply with principles of natural justice.

06. That as per the above terms, the grounds of appeal stands allowed for statistical purposes.
07. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 03.09. 2024.

Sd/-
(PARTHA SARATHI CHAUDHURY)
(JUDICIAL MEMBER)

Ranchi, Dated: 03.09. 2024

Sudip Sarkar, Sr.PS



Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. CIT
4. DR, ITAT, Ranchi
5. Guard file.

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Ranchi