

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

BEFORE SHRI R. K. PANDA, VICE PRESIDENT
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.799/PUN/2024
निर्धारण वर्ष / Assessment Year: 2014-15

Bharat Keshavlal Shah, 27, Bharat Pushpa, Sujay Garden, Mukundnagar, Pune- 411037. PAN : ADXPS3821M	Vs.	DCIT, Circle-5, Pune.
Appellant		Respondent

Assessee by : Shri Nikhil S. Pathak
Revenue by : Shri Rakesh Jha
Date of hearing : 24.07.2024
Date of pronouncement : 05.09.2024

आदेश / ORDER

PER VINAY BHAMORE, JM:

This appeal filed by the assessee is directed against the order dated 19.12.2023 passed by LD CIT(A)/NFAC for the assessment year 2014-15.

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

"1. The assessee requests for condonation of delay of 62 days in filing the appeal since there was a reasonable cause on the part of the assessee in not filing the appeal within the prescribed time limit.

2. The learned CIT(A) erred in dismissing the appeal of the assessee for want of prosecution on the ground that the assessee had not filed any submissions and hence was not interested in pursuing the appeal.

3. *The learned CIT(A) has failed to appreciate that the assessee has filed detailed submission on 15.12.2023 and accordingly there was no reason to dismiss the appeal of the assessee for want of prosecution.*
4. *The learned CIT(A) further erred in confirming the addition of interest disallowance u/s 36(1)(iii) Rs 4,28,48,696 without appreciating that the said addition was not warranted on the facts of the case.*
5. *The learned CIT(A) erred in confirming the addition on account of deemed rental income of Rs 10,92,953 without appreciating that the said addition was not warranted on the facts of the case.*
6. *The learned CIT(A) further erred in confirming the addition of Rs 7,59,02,000, u/s 56(2)(vii) without appreciating that the said addition was not warranted on facts of the case.*
7. *The assessee submits that the AO has erred in assessing the total income of the assessee by neglecting to give effect to the losses brought forward from AY 2010-11.*
8. *The appellant craves leave to add, alter, amend, or delete any of the above grounds of appeal”*

3. There is a delay of 62 days in filing of this appeal. The assessee has filed an application praying for condonation of delay along with affidavit, mentioning the reasons which caused the delay in filing of this appeal. The ld. DR raised no serious objection to the prayer of the assessee. We are satisfied with the reasons mentioned by the assessee for which the appeal could not be filed in time. Considering the totality of the facts, we condone the delay of 62 days in filing of this appeal and admit the appeal for adjudication on merits of the case.

4. The facts of the case, in brief, are that the assessee is an individual filed his return of income declaring loss of

Rs.16,80,14,718/-. On the basis of above return, the order u/s 143(3) of the IT Act was passed determining the total income at Rs.Nil. Later on, the case was selected by ld. PCIT u/s 263 of the IT Act and again order u/s 143(3) r.w.s. 263 of the IT Act was passed by determining the taxable income at Rs.10,26,42,678/-. The assessee preferred first appeal against the above re-assessment order.

5. Since the assessee remained absent [as per ld. CIT(A)/NFAC], the ld. CIT(A)/NFAC dismissed the appeal for want of prosecution. It is this order against which the assessee is in appeal before this Tribunal.

6. The ld. AR submitted before us that the assessee has already filed a detailed written submission on 15.12.2023 which has not been considered by the ld. CIT(A)/NFAC and, therefore, it is wrong on the part of the ld. CIT(A)/NFAC to dismiss the appeal on the basis of non-filing of any submission. In support of the above contention, the ld. AR produced acknowledgements of online submissions furnished before the ld. CIT(A)/NFAC on 15.12.2023. The same is also produced before the Bench with the help of paper book containing pages 1 to 22. On the basis of above documents produced in the shape of paper book, ld. AR requested the Bench

to set-aside the order passed by the ld. CIT(A)/NFAC & further requested to direct LD CIT(A)/NFAC to consider the reply already furnished before him.

7. The ld. DR relied on the orders passed by the subordinate authorities and requested to confirm the same.

8. We have heard the ld. Counsel from both the sides and perused the material available on record. We find that the assessee has furnished written online submissions on income tax portal on 15.12.2023, the e-proceedings response acknowledgements is also produced before us. From perusal of these e-proceedings response, it is apparent that not less than 16 separate documents were filed before the ld. CIT(A)/NFAC. But, the ld. CIT(A)/NFAC failed to consider all these submissions made before him for the reasons best known to him. We also find that the sole reason for dismissing the appeal of the assessee is non-furnishing of any submission/detail before the ld. CIT(A)/NFAC. Therefore, under the facts and circumstances of the case, we deem it appropriate to set-aside the order passed by the ld. CIT(A)/NFAC and remand the matter back to the file of the ld. CIT(A)/NFAC with direction to decide the appeal afresh as per fact and law after considering the e-proceedings response submitted by the assessee on 15.12.2023

and after providing reasonable opportunities of hearing to the assessee. The assessee is also directed to respond to the notices issued by the Id. CIT(A)/NFAC and furnish requisite details, if any, further required. Thus, the grounds of appeal raised by the assessee are partly allowed.

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

Order pronounced on 05th day of September, 2024.

Sd/-
(R. K. PANDA)
VICE PRESIDENT

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 05th September, 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, "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.