



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

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

AND

HON'BLE SHRI VINAY BHAMORE, JUDICIAL MEMBER

ITA No. 1410/PUN/2024

Assessment Year : 2013-14

Suchitra Shashikant Khavare

A/p: Shirol Plachi,

Tal.: Hatkalangle,

Kolhapur-416122

PAN: AOWPK8959A.

..... *Appellant*

V/s

The Income Tax Officer,

Ichalkaranji.

..... *Respondent*

Appearances

Assessee by : Mr Pramod Shingte ['Ld. AR']

Revenue by : Mr BS Rajpurohit ['Ld. DR']

Date of conclusive Hearing : 10/09/2024

Date of Pronouncement : 10/09/2024

ORDER

PER G. D. PADMAHSHALI, AM;

The present appeal of the assessee challenges DIN & Order No. ITBA/NFAC/S/250/2024-25/1064941516(1) dt. 16/05/2024 passed by the first appellate authority ['Ld. NFAC/ CIT(A)' hereinafter] u/s 250 of the Income-tax Act, 1961 ['the Act' hereinafter] passed which in turn confirmed the ex-parte order of assessment passed u/s 147 r.w.s. 144 r.w.s. 144B of the Act by the National e-Asstt Centre, Delhi ['Ld. AO' hereinafter] for assessment year 2013-14 ['AY' hereinafter];



2. We note that, the assessee was identified as non-filer in whose case the information that the assessee purchased an immovable property was received pursuant to which the case of the assessee was reopened u/s 148 of the Act. In the event of non-compliance and effective failure of the assessee to substantiate the nature & sources of immovable property purchased by her jointly with Smt Minaxi Chandrakant Khavare the Ld. AO framed the assessment *ex-parte* on 28/03/2022 to the best of his judgement u/s 144 r.w.s. 147 of the Act. Aggrieved assessee instituted delayed appeal before the Ld. NFAC which was dismissed *in limine* as barred by limitation.

3. Without touching the merits of the case we have heard the rival parties on the limited issue of *ex-parte* assessment and *ex-parte* dismissal of appeal by the Ld. NFAC and subject to rule 18 of ITAT-Rules 1963 perused material placed on record, considered the facts in the light of settled legal position. We noted that against the order of assessment passed on 28/03/2022 an appeal thereagainst was filed before the Ld. NFAC on 07/10/2022 admittedly with a delay 221 days accompanying therewith a petition for condonation of delay stating therein that (a) assessee suspended her business activities in the financial year 2011-12 (b) was unable to attend the



electronic communication (c) the electronic/soft copies of orders were communicated by the Revenue to an email address belonging to erstwhile tax consultant who did not forward the same to the assessee and further no physical/hard copies of the orders were received by it from the Revenue. However these reasons did fail to form 'sufficient cause' in view of the Ld. NFAC therefore it rejected to entertain the appeal on a technical ground of assessee's failure to prove the reasonable/sufficient cause beyond the said delay.

4. At the outset, after vouching sufficiency of reasons beyond undeliberate delay in instituting these separate appeals before the Ld. NFAC, we after placing reliance on '*Vijay Vishin Meghani Vs. DCIT & Anr*' reported 398 ITR 250 (Bom) and '*Collector, Land Acquisition, Anantnag and Anr. Vs Ms Katiji and Others*' reported at 167 ITR 5 (SC), in the larger interest of justice deem it fit to condone the same holding as '***none should be deprived of an adjudication on merits unless it is found that the litigant deliberately delayed the filing of appeal.***'

5. Admittedly the assessee could neither represent her case with during the course of assessment proceedings nor could she had any opportunity lay any evidence during the course of first appellate



proceedings. Both these proceedings admittedly culminated *ex-parte* without appellant's assistance and in absence of cogent evidences. Therefore we find force in the request of appellant to remand the matter to assessing officer instead, as the original assessment in this case was framed *ex-parte* to the best of judgment u/s 144 of the Act. The Ld. DR could hardly object such request.

6. Having satisfied with the sufficiency of reasons beyond undeliberate delay caused in instituting appeal before Ld. NFAC we condoned the same and in consequence without offering any comments on merits of the case, we set-aside both impugned order and *ex-parte* order of assessment and remit the file back to the Ld. AO with a direction deal therewith on merits *de-novo* in accordance with applicable law after giving reasonable hearing to assessee.

7. In result the appeal is PARTLY ALLOWED FOR STATISTICAL PURPOSES.

In terms of rule 34 of ITAT Rules, the order pronounced in the open court on this Tuesday, 10th day of September, 2024

-S/d-

VINAY BHAMORE
JUDICIAL MEMBER

-S/d-

G. D. PADMAHSHALI
ACCOUNTANT MEMBER

पुणे / PUNE ; दिनांक / Dated : 10th day of September, 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. गार्डफाइल / Guard File.

आदेशानुसार / By Order

वरिष्ठ निजी सचिव / Sr. Private Secretary

आयकर अपीलार्थी न्यायाधिकरण, पुणे / ITAT, Pune.