

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH, NAGPUR

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER

SMC MATTER

ITA no.409/Nag./2023
(Assessment Year : 2016-17)

Balasaheb Pundlikrao Ghormode
At Post Unkhed, Wai Mana, Wai Pargane
Mana B.O. Wai Mana, Akola 444 107
PAN – BAFPG8004C

..... Appellant

v/s

Income Tax Officer
Ward-1, Akola

..... Respondent

Assessee by : Shri Sameerkumar R. Gupta
Revenue by : Shri Abhay Y. Marathe

Date of Hearing – 12/09/2024

Date of Order – 18/09/2024

ORDER

The assessee has filed this appeal challenging the impugned order dated 16/10/2023, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*learned CIT(A)*], for the assessment year 2016-17.

2. In its appeal, the assessee has raised following grounds:-

"1. The learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi erred in adjudicating the order u/s 250 without apprehending the merits of the case and is not in line with the facts of the case.

2. The Ld. AO has not considered the submissions of the Assessee and also failed to mention the same in the Assessment order u/s 147 r.w.s. 144 dated 14-03-2022 and hence the same is not considered by the Appellant Authority.

3. Considering the facts of the case as briefly mentioned in the Statement of Facts as enclosed in Annexure B overleaf, for your due perusal and seeking justice:

4. The appellant craves leave to add, alter or amend and/or withdraw any ground or grounds of appeal either before or during the course of the hearing of the appeal."

3. Facts in Brief:- The assessee qualified as matriculation, poor agriculturalist resides in a Mofussil area at Unakhed, Wai Mana, at Taluka Murtizapur, District Akola. The assessee owns a few acres of agricultural land and runs his livelihood on the income generated out of agriculture produce and agriculture income is the sole source of income over the years. It is stated that the assessee is not aware of the income tax provisions and procedures, as he never filed his income tax return, since he is not required to file the return of income. As per the information available with the Department, it was noticed that during the year under consideration, the assessee has invested ₹ 5,88,900, as his 1/4th share in the property purchased along with three others for the consideration of ₹ 22,65,000 plus ₹ 90,600, incurred for stamp duty charges, totalling to ₹ 23,55,600. The case was reopened by issuing notice dated 27/03/2021, under section 148 of the Income Tax Act, 1961 ("*the Act*"). On receipt of the first notice under section 148 of the Act, yet the assessee did not file his return of income and the assessee contacted to local person who used to write the books of accounts and assured the Assessee that he would hire the services of some Chartered Accountant or Advocate to deal with the notice and get the issue resolved. The issue was being handled by a qualified professional, but subsequently failed to comply with the notices issued by the Income Tax Department which

resulted in passing final assessment order under section 147 r/w section 144 of the Act by the Assessing Officer. The scrutiny assessment was completed under section under section 147 r/w section 144 of the Act by the concerned ITO, Ward-1, Akola, vide order dated 14/03/2022, assessing total income at ₹ 5,88,900, made under section 69A of the Act treating as unexplained investment. The assessee being aggrieved filed the appeal before the first appellate authority i.e., National Faceless Appeal Centre, Delhi.

4. However, even before the first appellate authority also, the appeal remained unattended by the said professional counsel which also resulted in passing of the ex-parte order by the first appellate authority. The observations of the learned CIT(A) dismissing the appeal of the assessee are reproduced below:-

"6.2 In the instance of the case the appellant failed to make any submissions in support of grounds of appeal, this gives rise to an undisputable conclusion that the assessee has got nothing more to say in this regard. I have gone through the record before me and based on the record I have decided to adjudicate the issue on the merits of the case. In the instant case the AO has rightly assessed. Since the appellant failed to substantiate appellant's claim and additions made by the Assessing Officer of Rs 5,88,900/- is hereby confirmed.

Further during the course of appellate proceedings assessee has failed to produce any submission /evidence in support of his appeal proceedings. In the absence of any evidence, whatsoever, whether documentary or otherwise I am constrained to agree with the approach adopted by the AO in making the addition. The AO has passed a reason and speaking order considering all the facts and the circumstances of the case and no interference with the order of the AO is called for. The grounds of appeal are therefore dismissed.

7. All grounds of the appeal are hereby dismissed."

The assessee being aggrieved, is in further appeal before the Tribunal.

5. I have heard the rival arguments, perused the material available on record and gone through the orders of the authorities below. During the course of hearing, the learned Authorised Representative appearing for the assessee has produced receipts showing agricultural income which proves that the assessee is carrying on agricultural activities and deriving income therefrom. I also find that the assessee has made small investment which can be ascribed to be a part of savings from the income derived from agricultural activities during preceding years. Keeping the above in view, I am of the considered opinion that the addition made by the Assessing Officer and confirmed by the learned CIT(A) has no merit hence the addition made under section 69A of the Act treating the investment made by the assessee as unexplained is hereby directed to be deleted. The grounds raised by the assessee are allowed.

6. In the result, appeal filed by the assessee is allowed.

Order pronounced in the open Court on 18/09/2024

NAGPUR, DATED: 18/09/2024

**Sd/-
V. DURGA RAO
JUDICIAL MEMBER**

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Nagpur; and
- (5) Guard file.

Pradeep J. Chowdhury
Sr. Private Secretary

True Copy
By Order

Sr. Private Secretary
ITAT, Nagpur