

IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH, PUNE

BEFORE SHRI R.K. PANDA, VICE PRESIDENT
AND
SHRI S.S. GODARA, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.1217/PUN/2024

निर्धारण वर्ष / Assessment Year: 2013-14

Sanjay Shyamlal Goyal, Office No.402, 403, Fourth Floor, Vikram Goldmine, Opp. Venus Traders, FC Road, Shivajinagar, Pune City, A.R. Shala S.O., Pune 411 004 Maharashtra PAN : ACRPG4156C	बनाम / V/s.	The Income Tax Officer, Ward-5(1), Pune
.....अपीलार्थी / Appellant	प्रत्यर्थी / Respondent

Assessee by : Shri Sharad A. Shah
Revenue by : Shri Arvind Desai

सुनवाई की तारीख / Date of Hearing : 10.09.2024

घोषणा की तारीख / Date of Pronouncement : 18.09.2024

आदेश / ORDER

PER S.S. GODARA, JM :

This assessee's appeal for assessment year 2013-14 arises against the NFAC's Order No.ITBA/NFAC/S/250/2024-25/1064413155(1), dated 29.04.2024, involving proceedings u/s.250 of the Income Tax Act, 1961 (in short "the Act").

2. Heard both the sides. Case file perused.

3. It emerges at the outset with us the first and foremost legal issue of validity of the impugned section 148/147 reopening itself which was initiated by the learned Assessing Officer by issuing his corresponding notice dated 06.07.2022 for assessment year 2013-14.

4. Learned Counsel has quoted hon'ble jurisdictional high court's decision in the *New India Assurance Company Ltd. Vs. ACIT (2024) 337 CTR 257 (Bom.)* holding that such a reopening for the very assessment year is time barred as under :

“(i) We are unable to comprehend the contention raised that if the notice dated 30th May 2022 under Section 148A(b) of the Act is valid in terms of Apex Court order in *Ashish Agrawal (Supra)*, then the notice under Section 148 of the Act cannot be issued on 31st March 2021 and respondent cannot be expected to do impossible. It has nowhere been urged by petitioner that assessing officer ought to complete the proceedings before the show cause notice under Section 148A(b) of the Act was issued. It is the case of petitioner that the reopening notice under Section 148 ought to have been issued within 6 years from the end of the AY 2013-14. This limitation period, as extended by TOLA, expired on 31st March 2021. However, in the present case, the reopening notice has been issued in July 2022 and, therefore, beyond the statutory time limit. In any case, as stated above, the Hon'ble Supreme Court, while invoking powers under Article 142, consciously and categorically granted liberty to assesseees to raise all defences available to the assessee, including the defences under Section 149 of the Act. This specific and express directions cannot be set at naught. Accepting this contention of the Revenue would be a travesty of justice.”

5. Faced with this situation, the Revenue's sole substantive argument is that learned lower appellate authority's order has been passed *ex parte* and therefore, we ought to restore the assessee's appeal back to him.

6. We find no merit in the Revenue's foregoing instant technical objection once it has come on record that the assessee's instant first and foremost legal ground is squarely covered as per their lordships detailed discussion extracted in preceding paragraph(s). We adopt the same *mutatis mutandis* to quash the impugned reasoning as time barred in very terms. Ordered accordingly.

7. This assessee's appeal is allowed in above terms.

Order pronounced on 18th September, 2024.

Sd/-
R.K. PANDA
VICE PRESIDENT

Sd/-
S.S. GODARA
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 18th September, 2024

Satish

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order is forwarded to :

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The concerned Pr.CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "B" /
DR 'B', ITAT, Pune;
5. गार्ड फाईल / Guard file.

आदेशानुसार / BY ORDER,

//सत्यापित प्रति// True Copy//

वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune