

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

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.1537/PUN/2024

निर्धारण वर्ष / Assessment Year : 2012-13

Rahul Nandkumar Shelar, Kahdakupura, Indapur, Dist. Pune 413106 Maharashtra PAN : BNYPS3356P	Vs.	ITO, Ward-14(5), Pune
Appellant		Respondent

Assessee by : None
Revenue by : Shri B.S. Rajpurohit
Date of hearing : 17.09.2024
Date of pronouncement : 18.09.2024

आदेश / ORDER

PER INTURI RAMA RAO, AM:

This is an appeal filed by the assessee directed against the order of National Faceless Appeal Centre, Delhi dated 24.06.2024 for the assessment year 2012-13.

2. Brief facts of the case are that the appellant is an individual engaged in the business of Trading in clothes. The Return of Income for the A.Y. 2012-13 was filed on 10.12.2013 disclosing income of Rs.1,42,058/-. Based on the information available with the department that the appellant made cash deposits to the tune of Rs.39,06,768/- with ICICI Bank, Indapur, the case was selected for reassessment by way of issue of notice u/s.148 on 27.03.2019. The appellant submitted copy of ITR, Computation Sheet, P&L Account, Balance sheet. Subsequently, notice u/s.142(1) as well as show cause notice were issued to the

appellant calling for further details. There was no compliance to the said notices from the appellant. In the circumstances, the Assessing Officer (AO) vide order dated 06.12.2019 was constrained to pass the best judgment assessment u/s.144 r.w.s.147 of the Income Tax Act, 1961 (hereinafter also called 'the Act') at a total income of Rs.34,54,126/-. While doing so, the AO made addition of cash deposit of Rs.33,12,068/- made by the appellant with ICICI Bank, Indapur for the failure of the appellant to explain the source of the said cash deposit.

3. Being aggrieved, an appeal was filed before the CIT(A)/NFAC who vide impugned order dismissed the appeal *in limine* for non-prosecution.

4. Being aggrieved, the appellant is in appeal before the Tribunal in the present appeal.

5. When the appeal was called on, none appeared on behalf of the appellant despite due service of notice of hearing. I therefore, proceed to dispose of the appeal *ex parte* after hearing the Id. Departmental Representative.

6. I heard the Id. Sr. DR and perused the material on record. On mere perusal of the impugned order, it would reveal that the appellant sought time to comply with notices before the CIT(A)/NFAC which remained undisposed. I find the Id. CIT(A)/NFAC without discussing anything on merits of the addition on account of cash deposits made by the appellant, simply dismissed the appeal *in limine*, which is contrary to settled position of law. It is a trite law that the CIT(A) should have dealt with the merits of the issues in appeal, even in the case of an *ex-parte* order. In this regard, reference is being made to a decision of the Hon'ble Bombay High Court in the case of *Pr.CIT(Central) Vs.*

Premkumar Arjundas Luthra (HUF) Bombay)/[2017] 297 CTR 614 (Bombay) wherein it was held that CIT(A) is obliged to dispose of the appeal on merits. Therefore, I deem it proper to remit the matter to the file of CIT(A)/NFAC for *de novo* disposal of the issue in appeal on merits afresh after allowing reasonable opportunity to the appellant, in accordance with law. I order accordingly.

7. In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced on this 18th day of September, 2024.

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

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

Satish

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, "SMC" बेंच, पुणे / DR, ITAT, "SMC" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.