

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

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.1503/PUN/2024

निर्धारण वर्ष / Assessment Year : 2012-13

Sourabh Vijay Gadale, S.No.271, Near PCMC Water Tank, Wakad, Pune 411 075 Maharashtra PAN : AOIPG1349C	Vs.	ITO, Ward-2(4), Pune
Appellant		Respondent

Assessee by : None  
Revenue by : Shri B.S. Rajpurohit

Date of hearing : 18.09.2024  
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 Addl/JCIT(A), Agra dated 21.06.2024 passed u/s.250 of the Income-tax Act, 1961 (hereinafter also called 'the Act') for the assessment year 2012-13.

2. Brief facts of the case are that the appellant is an individual engaged in the business of manufacturing of School uniforms and Trading in allied products under the name and style "M/s. Tushar Dresses". The Return of Income for the A.Y. 2012-13 was filed on 28.09.2012 disclosing total income of Rs.9,12,480/-. It was revealed during the scrutiny proceedings that the appellant made payment of Rs.6,75,000/- to Shri Satish Laxman Gadale, Proprietor of Prestige Garments & Tailoring Firm. The case was reopened by way of issue of

notice u/s.148. Notice u/s.142(1) was issued to the appellant to which the appellant complied with by furnishing requisite details. During the assessment proceedings, the Assessing Officer (AO) called upon the appellant to explain the reasons for payment of Rs.6,75,000/- in cash, which is in contravention to the provisions of section 40A(3) of the Act. The explanation of the appellant that the money was paid towards stitching charges has not been accepted by the AO. Thus, the AO vide order dated 28.11.2016 passed u/s.143(3) of the Act disallowed Rs.6,75,000/- invoking the provisions of section 40A(3) of the Act. Further, the AO also disallowed 30% out of the office expenses of Rs.1,03,574/- debited by the appellant to the profit & loss account.

3. Being aggrieved by the above additions, an appeal was filed before the Addl/JCIT(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 contents of para No.5 of the impugned order, it would reveal that the Id. Addl/JCIT(A)/NFAC without discussing anything on merits of the above additions by the Assessing Officer, 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 Addl/JCIT(A)/NFAC for *de novo* disposal of the issues 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 18<sup>th</sup> day of September, 2024.

**Sd/-**  
**(INTURI RAMA RAO)**  
**ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated : 18<sup>th</sup> 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.