

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

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.1522/PUN/2024

निर्धारण वर्ष / Assessment Year : 2018-19

Latabai Vijay Jadhav, Mohida Road, Shahada, Dist. Nandurbar – 425 409 Maharashtra PAN : AJTPJ4255E	Vs.	ITO, NFAC, Delhi Delhi
Appellant		Respondent

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

Date of hearing : 19.09.2024
Date of pronouncement : 19.09.2024

आदेश / ORDER

PER INTURI RAMA RAO, AM:

This is an appeal filed by the assessee directed against the order of National Faceless Appeal Centre (NFAC), Delhi dated 22.05.2024 for the assessment year 2018-19.

2. Brief facts of the case are as under :

The appellant is an individual deriving income from Dairy farming and Agricultural income etc. The Return of Income for the A.Y. 2018-19 was filed on 31.08.2018 declaring total income of Rs.4,19,870/- and Agricultural income of Rs.47,31,935/-. Subsequently, the case was selected for Limited Scrutiny for verification of Large Agricultural income in comparison to total income. Statutory notices u/s.143(2)/142(1) were issued to the appellant asking the appellant to substantiate the claim of Agricultural

income declared in the Income-tax Return. In response, the appellant filed submissions before the AO. Not convinced with the submissions filed by the appellant, the AO treated 50% of the Agricultural income as unexplained on the ground the appellant had not furnished adequate evidence to substantiate the quantum of agricultural income. It was also held that the appellant had failed to furnish correct details in regard to the expenses incurred. Thus, the AO vide order dated 26.08.2021 passed u/s.143(3) r.w.s.144B of the Act brought to tax the 50% of Agricultural income claimed as unexplained credit u/s.68 of the Act.

3. Being aggrieved by the above assessment, an appeal was filed before the CIT(A)/NFAC who vide impugned order dismissed the appeal *in limine* for non prosecution, without discussing anything on merits of the disallowance.

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. It is an admitted position that the NFAC has dismissed the appeal of the appellant *ex parte* for non-prosecution. Further, it is a trite law that the NFAC should have dealt with the merits of the issue in appeal, even in the case of *ex parte* order. From the perusal of para 5.5 of the impugned order, it would reveal that the NFAC had not gone into the merits of the issue in appeal, merely dismissed the appeal for non-prosecution, which is contrary to the settled position of law. 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 stands partly allowed.

Order pronounced on this 19th day of September, 2024.

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 19th 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.