

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

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.1706/PUN/2024

निर्धारण वर्ष / Assessment Year : 2012-13

Ashok Ramchandra Panse, 693, Sadashiv Peth, Kumthekar Road, Pune – 411 030 Maharashtra PAN : ABKPP5474C	Vs.	ITO, Ward-12(1), Pune
Appellant		Respondent

Assessee by : Shri Saurabh Patil
Revenue by : Shri B.S. Rajpurohit

Date of hearing : 26.09.2024
Date of pronouncement : 26.09.2024

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 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. Briefly, the facts of the case are that the appellant is an individual, no regular return of income under the provisions of section 139(1) was filed for the A.Y. 2012-13. Based on the information that the appellant made cash deposit in savings bank account to the tune of Rs.31,70,000/-

and also received contractual receipts of Rs.30,460/-, the Assessing Officer (AO) formed an opinion that income escaped assessment to income-tax. Statutory notices u/s.148/142(1) were issued to the appellant. The appellant neither complied with notice u/s.148 nor to notice u/s.142(1). In the circumstances, the Assessing Officer vide order dated 23.12.2019 was constrained to pass best judgment assessment u/s.144 r.w.s.147, bringing to tax the said sums as unexplained money u/s.69A of the Act/Income from Business or Profession” respectively.

3. Being aggrieved by the above additions, an appeal was filed before the CIT(A)/NFAC who vide impugned order dismissed the appeal *in limine*, without going into merits of the issues in appeal.

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

5. We heard the rival submissions and perused the material on record. It is an admitted position that the NFAC had 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 5.3 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, we deem it proper to remit the matter to the file of

CIT(A)/NFAC for *de novo* disposal of the issues in appeal on merit afresh after allowing reasonable opportunity to the appellant, in accordance with law. We order accordingly.

6. In the result, the appeal filed by the assessee stands partly allowed for statistical purposes.

Order pronounced on this 26th day of September, 2024.

Sd/-
(S.S.GODARA)
JUDICIAL MEMBER

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 26th 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.