

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

BEFORE SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.1311/PUN/2024
निर्धारण वर्ष / Assessment Year : 2012-13

Santosh Maruti Pawar, At Post Gopal Wadi, Daund, Pune- 413801. PAN : BHRPP4140F	Vs.	ITO, Ward-14(5), Pune.
Appellant		Respondent

Assessee by : Shir Paras Munot
Revenue by : Shri Akhilesh Srivastava

Date of hearing : 04.09.2024
Date of pronouncement : 08.10.2024

आदेश / ORDER

PER VINAY BHAMORE, JM:

This appeal filed by the assessee is directed against the order dated 20.01.2023 passed by Ld CIT(A)/NFAC for the assessment year 2012-13.

2. The present appeal is filed belatedly. The ld. AR with the help of delay condonation application supported with an affidavit submitted that the assessee was prevented by reasonable cause for not submitting the appeal in prescribed time limit. It was submitted that the assessee was suffering from Hepatomegaly and undergoing

treatment and, therefore, was not in a position to look after all these tax matters. The doctor's certificate was also produced before us. Considering the medical conditions of the assessee, which is beyond the control of the assessee, we deem it appropriate to condone the delay in filing of this appeal and admit the appeal for adjudication on merits.

3. The appellant raised the following grounds of appeal :-

- “1. The Ld. Assessing Officer erred in law and in fact in making addition of Rs.10,00,000/- as unexplained investment to the Returned Income without considering the factual position of the same.*
- 2. The Ld. Assessing Officer erred in law and in fact in levying penalty of Rs.10,000/- under section 271(1)(b).*
- 3. The Ld. Assessing Officer erred in law and in levying penalty of Rs.1,56,560/- under section 271(1)(c).*
- 4. The Ld. Assessing Officer erred in law and in levying penalty of Rs.5,000/- under section 271F.*
- 5. The appellant craves leaves to add or amend any ground of appeal.”*

4. The facts of the case, in brief, are that the assessee is an individual engaged in the agricultural activities. The Department on the basis of information received on NMS data noticed that the assessee has purchased immovable property for a consideration of Rs.50,00,000/- along with 4 persons. The case was selected for reassessment and after obtaining prior approval of the authority, a notice u/s 148 was issued to the assessee. Subsequently, notice u/s

142(1) was also issued to the assessee. The Assessing Officer asked the sources of Rs.10,00,000/- invested by the assessee in the purchase of the property . Since the assessee did not respond, the Assessing Officer completed the assessment vide order dated 14.11.2019 u/s 144 r.w.s. 147 of the IT Act & determined taxable income of Rs.10,00,000/-. Against the above assessment order, the assessee preferred first appeal before the ld. CIT(A)/NFAC. Since the assessee remained absent, ld. CIT(A)/NFAC dismissed the appeal for want of prosecution without discussing the merits of the case. It is this order against which the assessee is in appeal before this Tribunal.

5. The ld. AR submitted before us that the assessee is an agriculturist and sold his agricultural land along with 7 other family members for a total consideration of Rs.1,00,00,000/- on 20.07.2010. As per the sale deed furnished in the paper book, the assessee has received Rs.9,67,741/- from the sale of above agricultural land as his share. Copy of bank statement for the financial year 2010-11 is also submitted before the Bench. It was further submitted by ld. AR that the above amount was utilized for purchasing another agricultural land along with 4 other family

members. Therefore, it was contended before the Bench that from the sale of one agricultural land sufficient amount was received which was invested in purchasing of another agricultural land. There was no other income of the assessee, therefore, the return of income was not furnished by the assessee. It was therefore requested before the Bench to set-aside the order passed by the Id. CIT(A)/NFAC and allow the appeal of the assessee.

6. The Id. DR submitted before us that the order passed by the Id. CIT(A)/NFAC is correct. It was submitted that proper opportunity was allowed to the assessee, but he did not choose to appear before the first appellate authority. Therefore, the appeal of the assessee may kindly be dismissed.

7. We have heard the Id. Counsels from both the sides and perused the material available on record. We find that the Assessing Officer made addition on the basis of information that Rs.10,00,000/- was invested in the purchase of agricultural land, but the income tax return was not furnished by the assessee. In the absence of assessee, the Assessing Officer has no option but to add the amount of Rs.10,00,000/- in the hands of the assessee as unexplained investments. In the first appellate proceedings, the

assessee again remained absent and, therefore, the appeal was dismissed for want of prosecution and also without discussing merits of the case. It was the contention of the ld. AR that the assessee was suffering from some serious health issue, due to which he could not attend the proceedings either before the Assessing Officer or before the ld. CIT(A)/NFAC. It is evident that the source of investment of Rs.10,00,000/- for purchase of agricultural land during the financial year 2011-12 was, sale amount of another agricultural land received during the financial year 2010-11. It was the contention of the ld. AR that when proper source is available for investment in agricultural land, the Assessing Officer should not have had made the addition. We find that the ld. CIT(A)/NFAC has dismissed the appeal for want of prosecution and, therefore, the assessee could not produce the documents in support of the contention that proper source was available with the assessee for making the impugned investments. We, therefore, deem it fit to set-aside the order passed by the ld. CIT(A)/NFAC & remand the matter back to the file of LD CIT(A)/NFAC with a direction to pass a fresh order as per facts & law after providing reasonable opportunity of hearing to the assessee so that he can support the

grounds of appeal & produce the requisite evidences before the Id. CIT(A)/NFAC. The assessee is also directed to comply with the notices issued by the Id. CIT(A)/NFAC and produce the relevant documents in support of the grounds of appeal. Thus, the grounds of appeal raised by the assessee are partly allowed.

8. In the result, the appeal of the assessee stands partly allowed for statistical purposes.

Order pronounced on 08th day of October, 2024.

Sd/-
(G. D. PADMAHSHALI)
ACCOUNTANT MEMBER

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 08th October, 2024.

Sujeet

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.