

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

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.1739/PUN/2024

निर्धारण वर्ष / Assessment Year : 2014-15

Sucheta Ajit Ketkale, 19/149, Namokar Bungalow, Near Potdar Hospital, Modern High School, Ichalkaranji, Maharashtra – 416115 PAN : ABUPK3320J	Vs.	ITO, Ward-1, Ichalkaranji
Appellant		Respondent

Assessee by : Shri Pramod S. Shingte
Revenue by : Shri Harshad S. Aaradhi

Date of hearing : 08.10.2024
Date of pronouncement : 09.10.2024

आदेश / ORDER

PER INTURI RAMA RAO, AM:

This is an appeal filed by the appellant directed against the order of National Faceless Appeal Centre (NFAC), Delhi dated 11.07.2024 for the assessment year 2014-15.

2. Brief facts of the case are that the appellant is an individual engaged in Engineering works. The Return of Income for the A.Y. 2014-15 was filed on 28.09.2014 declaring loss of Rs.5,14,570/-. Based on the information that the appellant had made payments of Rs.2,00,000/- and Rs.8,00,000/- to M/s. Anandi Construction, Shivdav, Kankavali on 10.05.2013 and 05.06.2013 respectively, the case was reopened by way of issue of notice u/s.148 of the Act. Notice u/s.142(1) was issued to the appellant on 15.11.2021. The appellant neither complied with notice u/s.148 nor notice u/s.142(1). In the

circumstances, the Assessing Officer vide order dated 26.03.2022 completed the assessment *ex parte* u/s.147 r.w.s.144 r.w.s.144B of the Act, after making addition of Rs.8,00,000/- as unexplained expenditure u/s.69C and taxed the same under the provisions of section 115BBE of the Act.

3. Being aggrieved by the above addition, an appeal was filed before the NFAC with delay of about three months. The NFAC had refused to condone the delay on the ground that the appellant had not shown 'sufficient cause' for filing the appeal with delay. The NFAC dismissed the appeal as not maintainable invoking the provisions of section 249(2) of the Act.

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

5. I heard the rival submissions and perused the material on record. At the first instance, I shall deal with the issue Whether or not the Id. NFAC was justified in refusing to condone the delay of three days in filing the appeal. The assessment order was passed u/s.147 r.w.s.144 of the Act on 26.03.2022. The said order was stated to have been served to the appellant on 11.05.2022. The appeal was filed with the NFAC on 19.09.2022. Thus, there was delay of about three months in filing the appeal before the NFAC. On mere perusal of the grounds of appeal before the NFAC, it would be clear that the appellant sought time for submitting explanation/reasons for delay in the form of affidavit. There is no material on record to show that NFAC had disposed of adjournment. Thus, the NFAC had not provided sufficient opportunity to the appellant to explain the delay, in violation of principles of natural justice. In the present, the NFAC ought to have provided sufficient opportunity to explain the delay and adjudicated the issue in appeal on merits. In the circumstances, I deem it appropriate to remit the matter

to the file of NFAC for *denovo* disposal of the appeal in accordance with law after affording due opportunity of hearing to the appellant. I order accordingly.

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

Order pronounced on this 09th day of October, 2024.

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 09th October, 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.