

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

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.1769/PUN/2024

निर्धारण वर्ष / Assessment Year : 2017-18

Rahul Sudam Bankar, Ganesh Mandir Chowk, Varulwadi, Narayangaon, Junnar, Pune 410504 Maharashtra PAN : ARIPB2154P	Vs.	ITO, Ward-10(1), Akurdi, Pune
Appellant		Respondent

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

Date of hearing : 14.10.2024
Date of pronouncement : 14.10.2024

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 27.06.2024 for the assessment year 2017-18.

2. Brief facts of the case are that the appellant is an individual, stated to be an Agriculturist deriving income from agricultural activities. The appellant filed the return of income for the A.Y. 2017-18 on 25.10.2018 declaring total income of Rs.10,482/- which was not a valid return. On the basis of information reflected in Audit Information Management System (AIMS) that the appellant made cash deposits of Rs.11,56,000/- during demonetization period with HDFC Bank, Narayangaon, a notice u/s.148 was issued to the appellant on

31.03.2021 calling upon him to file the return of income. Notices u/s.142(1) were issued to the appellant asking him to furnish the explanation regarding the source of cash deposit along with documentary evidence. The appellant neither complied with notice u/s.148 nor notices u/s.142(1) of the Act. In the circumstances, the Assessing Officer vide order dated 23.03.2022 was constrained to make best judgment assessment u/s.147 r.w.s.144 r.w.s.144B of the Act. While doing so, the AO brought to tax the said cash deposits of Rs.11,56,000/- as unexplained money u/s.69A of the Act.

3. Being aggrieved by the above assessment order, an appeal was filed before the NFAC, who vide impugned order dismissed the appeal *in limine*, without going into merits of the addition.

4. Being aggrieved, the appellant is in appeal before this 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. From the perusal of the impugned order, it would be clear that the Id. NFAC without adverting to the submissions of the appellant that the issue of cash deposits was examined in the original assessment passed u/s.143(3) and therefore the issue cannot be examined in the re-assessment proceedings, dismissed the appeal *in limine*. Further, the NFAC had fell in serious error by not adjudicating the issue in appeal on merits. The settled position of law mandates the NFAC to dispose of the appeal by adjudicating the issue raised in appeal on merits. 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 by passing a speaking order after allowing reasonable opportunity to the appellant, in accordance with law. I order accordingly.

7. In the result, the appeal filed by the appellant stands partly allowed for statistical purposes.

Order pronounced on this 14th day of October, 2024.

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 14th 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.