

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

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.1827/PUN/2024

निर्धारण वर्ष / Assessment Year : 2016-17

Pravin Sureshkumar Jethliya, Station Road, Partur, Jalna – 431 501 Maharashtra PAN : AEYPI6375L	Vs.	ITO, Ward-2, Jalna
Appellant		Respondent

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

Date of hearing : 17.10.2024
Date of pronouncement : 17.10.2024

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 20.03.2024 for the assessment year 2016-17.

2. Brief facts of the case are that the assessee is an individual, filed the return of income on 26.09.2016 disclosing total income at Nil. The said return was processed u/s.143(1) of the Act. Subsequently, the case was selected for Scrutiny under CASS for verifying Whether the share capital is genuine and from disclosed sources. Statutory notices u/s.143(2) and 142(1) calling upon the assessee to submit the requisite details as called for. In response, the assessee submitted the details. On noticing that the closing capital as on 31.03.2015 was of Rs.1,67,45,947/- and the opening capital balance was shown at

Rs.2,04,87,084/-, the assessee was asked to reconcile the difference of Rs.37,41,137/- by issuing notices u/s.142(1). In the absence of any compliance from the side of assessee, the Assessing Officer vide order dated 22.11.2018 passed u/s.143(3) was constrained to complete the assessment by making addition of Rs.37,41,137/- as assessee's income.

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

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

5. When the appeal was called on, none appeared on behalf of the assessee 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 mere perusal of para 3 of the assessment order, it would be clear that the notices were issued through e-assessment/ITBA portal. It is also not clear that the Assessing Officer/NFAC had issued the notice(s) of hearing and also there is no proof of service of notices of hearing. In the circumstances, it can be presumed that the authorities had passed the impugned orders without giving a reasonable opportunity of being heard to the assessee to represent the matter and this approach of the authorities is in gross violation of principles of natural justice. Further, the authorities 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 NFAC is obliged to dispose of the appeal on merits. Therefore, I deem it proper to remit the matter to the file of Assessing Officer for *de novo* assessment after allowing reasonable opportunity to the assessee, in accordance with law. I order accordingly.

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

Order pronounced on this 17th day of October, 2024.

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 17th 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.