

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

BEFORE SHRI R. K. PANDA, VICE PRESIDENT
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.1664/PUN/2024
निर्धारण वर्ष / Assessment Year: 2017-18

Zahir Shaikh Nazeer Patel, Plot No.3, Ganesh Colony, Sohel Garden, Aurangabad- 431001. PAN : CFBPS0698C	Vs.	ITO, Ward-1, Aurangabad.
Appellant		Respondent

Assessee by : None
Revenue by : Shri B. S. Rajpurohit
Date of hearing : 30.09.2024
Date of pronouncement : 18.11.2024

आदेश / ORDER

PER VINAY BHAMORE, JM:

This appeal filed by the assessee is directed against the order dated 19.06.2024 passed by Ld. Addl./JCIT(A), Panaji for the assessment year 2017-18.

2. Facts of the case, in brief are that the assessee is an individual engaged in the business of fabrication work and filed his return of income on 03.03.2018 declaring total income of Rs.3,28,350/-. The return of income was processed u/s 143(1) of the IT Act. Subsequently, the case was selected under limited scrutiny to

examine credit card payments. Notices u/s 143(2) and 142(1) of the IT Act were issued to the assessee calling for certain details such as payment of credit card of SBI. Since the assessee did not comply to the above notices, the Assessing Officer collected the information from SBI Card by issuing notice u/s 133(6) of the IT Act. It was discovered by the Assessing Officer that the assessee has incurred cash payment of Rs.5,97,320/- towards credit card bills. In the absence of assessee, the Assessing Officer completed the assessment *ex-parte* u/s 144 of the IT Act by determining taxable income of Rs.9,25,670/- as against the income returned by the assessee at Rs.3,28,350/-. The above income includes addition of Rs.5,97,320/- as unexplained expenditure u/s 69C of the IT Act.

3. Since the assessee remained absent in first appeal, Ld. Addl./JCIT(A), Panaji dismissed the appeal filed by the assessee. It is this order against which the assessee is in appeal before this Tribunal.

4. When the case was called for hearing, none appeared on behalf of the assessee despite due service of notice of hearing. Therefore, we proceed to decide this appeal after hearing Ld. DR and on the basis of material available on record.

5. Ld. DR appearing for the Revenue placed heavy reliance on the order passed by Ld. Addl./JCIT(A), Panaji and requested to confirm the same.

6. We have heard Ld. DR and perused the material available on record. We find that the assessee himself appeared before the Assessing Officer on 11.09.2019 and stated that he is not well aware with the newly introduced e-proceedings system and due to this reason was unable to upload the submission and documents on the Income Tax portal and, therefore, manually submitted the same before the Assessing Officer. But the Assessing Officer without considering the submission of the assessee closed the e-submission window and passed the assessment *ex-parte* u/s 144 of the IT Act. We further find that during the course of assessment proceedings, it was very well explained before the Assessing Officer that credit card payment was made from the business turnover and an amount of Rs.2,99,750/- was received as unsecured loan from Mr. Habib Kazi and copy of loan confirmation statement was also manually furnished before the Assessing Officer. But as the submission could not be filed/uploaded by the assessee on e-proceedings system the same was not brought on record/considered by the Assessing Officer. It is seen from the ground of appeal that Ld.

Addl./JCIT(A), Panaji issued notices on the e-mail ID of an unrelated person and due to this reason the assessee could not respond to the notices issued by Ld. Addl./JCIT(A), Panaji. In this regard, we find that first two notices were issued on some other e-mail ID but thereafter the notices were issued by Ld. Addl./JCIT(A), Panaji on the e-mail ID mentioned in Form 35 i.e. Memo of Appeal. We also find that the notices of hearing were issued back to back with a short span of time by Ld. Addl./JCIT(A), Panaji. For example, a date of hearing was given on 11.12.2023 and thereafter another date of hearing was given on 21.12.2023. Considering the totality of facts, we are of the considered view that proper opportunity was not allowed to the assessee. We, therefore, deem it appropriate to set-aside the order passed by Ld. Addl./JCIT(A), Panaji with a direction to decide the appeal afresh as per facts and law after providing reasonable opportunity of hearing to the assessee. The assessee is also hereby directed to respond to the notices of hearing issued by Ld. Addl./JCIT(A), Panaji and submit documents/evidences in support of grounds of appeal, otherwise, Ld. Addl./JCIT(A), Panaji shall be at liberty to pass appropriate order as per law. We hold and direct

accordingly. Hence, the grounds raised by the assessee in this appeal are allowed for statistical purposes.

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

Order pronounced on this 18th day of November, 2024.

Sd/-
(R. K. PANDA)
VICE PRESIDENT

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 18th November, 2024.

Sujeet

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Addl./JCIT(A), Panaji.
4. The Pr. CIT/CIT concerned.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "SMC" बेंच, पुणे / DR, ITAT, "SMC" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.