

IN THE INCOME TAX APPELLATE TRIBUNAL

NAGPUR BENCH, NAGPUR

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER

S.M.C. MATTER

ITA no.382/Nag./2024

(Assessment Year : 2017-18)

Sanjay Namdeorao Shete
Shivneri, Gurukrupa Colony
Gopal Nagar, Amravati 444 607
PAN – BYXPS3857D

..... Appellant

v/s

Income Tax Officer
Ward-5, Amravati

..... Respondent

Assessee by : Shri Kishore P. Dewani
Revenue by : Shri Abhay Y. Marathe

Date of Hearing – 07/11/2024

Date of Order – 18/11/2024

ORDER

The assessee has filed this appeal challenging the impugned order dated 19/12/2023, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*learned CIT(A)*], for the assessment year 2017-18.

2. In its appeal, the assessee has raised following grounds:-

"1. The order passed by learned CIT(A) u/s 147 r.w.s. 144 of I.T. Act 1961 is without providing reasonable opportunity of being heard and is in violation of principles of natural justice. Various notices noted at para 5 of appellate order are not received physically. Order passed is not in accordance with law.

2. The learned PCIT(A) at para 14 of appellate order has erred in concluding that returned filed on 16/07/2018 is not valid even though such return was submitted before compliance of assessment proceedings.

3. The learned CIT(A) having not disputed that no notice u/s 143(2) of I.T. Act 1961 has been issued in the case of assessee ought to have cancelled the assessment framed in terms of judgement of Hon'ble Apex Court in the case of Hotel Blue Moon reported at 321 ITR 362(SC).

4. Notice Issued u/s 148 of I.T. Act 1961 is illegal, invalid and bad in law and thus consequent assessment framed thereon is liable to be cancelled.

5. The addition made by A.O. and upheld by CIT(A) at Rs.10,34,500/- u/s 69 of I.T. Act 1961 is unjustified, unwarranted and bad in law."

2. When this appeal is taken up for hearing, the learned A.R. appearing for the assessee submitted that the learned CIT(A) passed an ex-parte order and prayed that one opportunity may be granted by restoring the matter to the file of the learned CIT(A) to enable the assessee to substantiate its case before the learned CIT(A).

3. On the other hand, the learned D.R. submitted that the learned CIT(A) has given sufficient opportunities inspite of that the assessee has not appeared before the learned CIT(A) and not filed relevant details. He strongly supported the orders passed by the learned CIT(A).

4. I have heard both the parties, perused the materials available on record and gone through orders of the authorities below. I find that though the learned CIT(A) gave opportunities to the assessee, ultimately, the order passed by him is an ex-parte order. Therefore, I am of the opinion that by following the principles of natural justice, one more opportunity should be given to the assessee to substantiate his case before the learned CIT(A). In view of the above, the order passed by the learned CIT(A) is set aside and

remit the matter to the file of the learned CIT(A) and direct him to adjudicate the matter afresh after providing reasonable opportunity of being heard to the assessee. It is also directed that the assessee should not seek adjournment without there being a justified reason. Accordingly, all the grounds raised by the assessee in this appeal are allowed for statistical purposes.

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

Order pronounced in the open Court on 18/11/2024

NAGPUR, DATED: 18/12/2024

**Sd/-
V. DURGA RAO
JUDICIAL MEMBER**

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Nagpur; and*
- (5) *Guard file.*

*Pradeep J. Chowdhury
Sr. Private Secretary*

True Copy
By Order

Sr. Private Secretary
ITAT, Nagpur