

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.1152/PUN/2024
निर्धारण वर्ष / Assessment Year: 2016-17

Shree Swami Seva Prakashan, 304/3 BND Government Rest House Opp A. B. Shri Swami Samarth Gurupeeth, Ring Road, Trimbakeshwar, Nashik- 422212. PAN : AAKTS2192K	Vs.	National Faceless Assessment Centre, Delhi.
Appellant		Respondent

Assessee by : Shri Nikhil Pathak
Revenue by : Shri B. S. Rajpurohit
Date of hearing : 01.10.2024
Date of pronouncement : 27.11.2024

आदेश / ORDER

PER VINAY BHAMORE, JM:

This appeal filed by the assessee is directed against the order dated 30.03.2024 passed by Ld. CIT(A)/NFAC for the assessment year 2016-17.

2. Facts of the case, in brief, are that the assessee is a trust and filed its return of income declaring Nil income after claiming

exemption u/s 10(23)(iiiad) of the IT Act. A survey was conducted in the premises of the trust on 17.09.2018. During the course of assessment proceedings, it was found by the Assessing Officer that the trust is not eligible for exemption u/s 10(23C)(iv) of the IT Act and accordingly the assessment was completed at a total income of Rs.20,54,000/- as against the income returned by the assessee trust at Rs. Nil.

3. Since the assessee remained absent, Ld. CIT(A)/NFAC dismissed the appeal of the assessee. It is this order against which the assessee is in appeal before this Tribunal.

4. Ld. AR appearing for the assessee submitted before us that the order passed by Ld. CIT(A)/NFAC is not justified. It was submitted that Ld. CIT(A)/NFAC was required to pass order on merits of the case by deciding each ground of appeal separately but the *ex-parte* order passed by Ld. CIT(A)/NFAC without going into the merits of the case is in complete disregard of section 250(6) of the IT Act, which mandates that Ld. CIT(A)/NFAC has to decide the appeal on merits. Accordingly, it was requested before the Bench to set-aside the *ex-parte* order passed by Ld. CIT(A)/NFAC

and further requested to provide one opportunity so that the assessee can substantiate the grounds of appeal before Ld. CIT(A)/NFAC.

5. Ld. DR appearing from the side of the Revenue relied on the order passed by Ld. CIT(A)/NFAC and requested to confirm the same.

6. We have heard Ld. Counsels from both the sides and perused the material available on record. We find that the Ld. CIT(A)/NFAC has decided the appeal *ex-parte* without going into the merits of the case. It is the sole contention of the counsel of the assessee that proper opportunity has not been allowed to the assessee to support the grounds of appeal and Ld. CIT(A)/NFAC ought to have decided the appeal on merits. We find some force in the arguments of Ld. Counsel of the assessee that even in the absence of assessee Ld. CIT(A)/NFAC was required to decide each and every ground raised in the memo of appeal by a speaking order. We therefore set-aside the impugned *ex-parte* order and remand the matter back to the file of Ld. CIT(A)/NFAC to decide the appeal afresh on merits as per fact and law after providing

reasonable opportunity of hearing to the assessee. The assessee is hereby also directed to respond to the notices issued by Ld. CIT(A)/NFAC in this regard and produce relevant documents/evidences in support of grounds of appeal raised in the memo of appeal, otherwise Ld. CIT(A)/NFAC shall be at liberty to pass appropriate order as per law. Thus, the grounds of appeal raised by the assessee are partly allowed.

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

Order pronounced on this 27th day of November, 2024.

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

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 27th November, 2024.

Sujeet

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.