

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

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

आयकर अपील सं. / ITA No.1189/PUN/2024
निर्धारण वर्ष / Assessment Year: 2017-18

Vishwanath Sopan Wakadkar, Sr. No.155/1, Wavdkar Vasti Wakad, Pune- 411057. PAN : AAOPW6091P	Vs.	ITO, Ward-10(4), Pune.
Appellant		Respondent

Assessee by : Shri Saurabh J. Patil &
Shri Abhay A. Shastri
Revenue by : Shri Ajay Kumar Keshari
Date of hearing : 08.10.2024
Date of pronouncement : 27.11.2024

आदेश / ORDER

PER VINAY BHAMORE, JM:

This appeal filed by the assessee is directed against the order dated 14.05.2024 passed by Ld. CIT(A)/NFAC for the assessment year 2017-18.

2. Facts of the case, in brief, are that the assessee is an individual and earned income from salary from Tata Motors Ltd. The assessee e-filed his return of income on 28.02.2018 declaring

total income of Rs.43,46,950/-. Apart from salary income the assessee has also shown LTCG of Rs.40,16,500/- on sale of immovable property. The case was selected for limited scrutiny through CASS to verify the deduction claimed on account of capital gains arising on sale of immovable property. Notices u/s 143(2) and 142(1) were issued to the assessee. In reply to the notices, the assessee furnished bank statement, Form No.16 and details in support of his income from Long Term Capital Gains. After considering the reply of the assessee, the Assessing Officer completed the assessment on total income of Rs.7,54,06,700/- as against the income returned by the assessee at Rs.43,46,950/-. The above assessed income includes Long Term Capital Gains of Rs.7,50,76,250/- as against the Long Term Capital Gains shown by the assessee at Rs.40,16,500/-.

3. In first appeal, Ld. CIT(A)/NFAC rejected the request for adjournment made by the assessee and decided the appeal on merits on the basis of material available on record. It is this order against which the assessee is in appeal before this Tribunal.

4. Ld. AR appearing from the side of the assessee submitted before the Bench that earlier Late Shri M. K. Kulkarni was looking after the tax matter of the assessee but unfortunately he died in the year 2023 and, therefore, the assessee requested that the hearing of appeal may kindly be adjourned to next date so that the assessee can appoint another tax consultant. But Ld. CIT(A)/NFAC rejected the request and decided the appeal on merits on the basis of material available on record. Accordingly, It was requested before the Bench to set-aside the *ex-parte* order passed by Ld. CIT(A)/NFAC and remand the matter back to the file of the Ld. CIT(A)/NFAC with direction to decide the appeal afresh after providing reasonable opportunity of hearing to the assessee.

5. Ld. DR appearing from the side of the Revenue fairly accepted the contentions raised by Ld. AR and raised no serious objection if the matter is remanded back to the file of Ld. CIT(A)/NFAC for fresh adjudication.

6. We have heard Ld. Counsels from both the sides and perused the material available on record. We find that earlier Late Shri M.K. Kulkarni was looking after the cases of the assessee and due

to his sudden demise, the assessee was compelled to take the adjournment. Since number of dates were already provided by Ld. CIT(A)/NFAC, he rejected the request of adjournment and proceeded to decide the appeal *ex-parte* on merits. Under the facts and circumstances of the case, we find force in the argument of Ld. Counsel of the assessee that due to the death of tax consultant of the assessee, it was beyond the control of the assessee to attend the appeal hearings. Accordingly, we deem it appropriate to set-aside the *ex-parte* order passed by Ld. CIT(A)/NFAC and remand the matter back to the file of Ld. CIT(A)/NFAC with direction to decide the appeal afresh as per fact & 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 supporting documents/evidences in support of grounds 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 in this appeal 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, "B" बेंच,
पुणे / DR, ITAT, "B" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

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