

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH, NAGPUR

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND
SHRI K.M. ROY, ACCOUNTANT, MEMBER

ITA no.90/Nag./2024
(Assessment Year : 2015-16)

Tarachand Pusaramji Mahakalkar
Office of the Commissioner of Police
Near General Post Office
Sadhu Waswani Chowk
Camp Road, Pune 411 001
PAN – AMZPM2076P

..... Appellant

v/s

Income Tax Officer
Ward-5(1), Nagpur

..... Respondent

Assessee by : Shri Abhay Agrawal
Revenue by : Shri Abhay Y. Marathe

Date of Hearing – 26/11/2024

Date of Order – 28/11/2024

ORDER

PER V. DURGA RAO, J.M.

The present appeal has been filed by the assessee challenging the impugned order dated 23/12/2023, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [“learned CIT(A)”], for the assessment year 2015-16.

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

"1. Whether on the facts and in law, the order passed by learned CIT(A) u/s 250 of the Act is bad in law.

2. Whether on the facts and in law, the learned CIT(A) erred in rejecting request for condonation of delay in filing appeal.

3. Whether on the facts and in law, the learned CIT(A) erred in upholding the action of learned AO in making addition Rs.89,33,400/- as unexplained investment u/s 69 of the Act to income of the assessee, ignoring the facts of the case as well as submissions and documentary evidences filed by the assessee.

4. Whether on the facts and in law, the learned CIT(A) erred in upholding the action of learned AO in making addition Rs.3,53,287/- as undisclosed salary, ignoring the facts of the case as well as submissions and documentary evidences filed by the assessee.

5. Whether on the facts and in law, the learned CIT(A) erred in not providing sufficient opportunity of being heard, thereby breaching principles of natural justice.

6. The Assessee craves to add, alter, vary, omit, amend or delete one or more of the above grounds of appeal before, or at the time of, hearing of the appeal, so as to enable the Hon'ble Tribunal to decide this appeal according to law."

3. When this appeal was taken up for hearing, the learned Counsel for the assessee submitted that the learned CIT(A) has dismissed the assessee's appeal on the ground that there is delay in filing the appeal before him and submitted that it may be restored to the file of the learned CIT(A) to adjudication the issues raised on merit and in accordance with law.

4. The learned Departmental Representative relied on the order of the authorities below.

5. We have heard the rival arguments, perused the material available on record and gone through the orders of the authorities below. In this case, we find that there is a delay in filing the appeal before the learned CIT(A) and the assessee has not furnished Affidavit explaining the delay before the learned CIT(A) and resultantly the learned CIT(A) was justified in dismissing the belated appeal filed by the assessee. However, in the interest of justice and also by following the principles of natural justice, we are of the opinion that

the assessee deserves one opportunity to establish its case before the learned CIT(A). Consequently, we set aside the impugned order passed by the learned CIT(A) and restore the entire matter to his file for denovo adjudication on merit and in accordance with law. The assessee is also directed to file Affidavit explaining the delay in filing the appeal before the learned CIT(A) by adducing proper evidence. Needless to say that the learned CIT(A) shall provide reasonable opportunity of being heard to the assessee.

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

Order pronounced in the open Court on 28/11/2024

Sd/-
K.M. ROY
ACCOUNTANT MEMBER

Sd/-
V. DURGA RAO
JUDICIAL MEMBER

NAGPUR, DATED: 28/11/2024

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