

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

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

आयकर अपील सं. / ITA No.1677/PUN/2024
निर्धारण वर्ष / Assessment Year: 2017-18

Amol Prakash Sankpal, Daphalapur Jath, Sangli, Sangli- 416402. PAN : BYJPS7584K	Vs.	ITO, Ward-2, Sangli.
Appellant		Respondent

Assessee by : Shri Umesh Kr. Madhukar Mali
Revenue by : Shri Ramnath P. Murkunde
Date of hearing : 19.11.2024
Date of pronouncement : 29.11.2024

आदेश / ORDER

PER VINAY BHAMORE, JM:

This appeal filed by the assessee is directed against the order dated 15.11.2023 passed by Ld. CIT(A)/NFAC for the assessment year 2017-18.

2. The appellant has raised the following grounds of appeal :-

"1. On the facts and circumstances of the case and in Law, the Ld. AO erred in making addition to total income of Rs.56,81,000/- U/s 68 without considering facts and circumstances of the case.

2. On the facts and circumstances of the case and in Law, the Ld. AO erred in making addition to total income of Rs.56,81,000/- U/s 68

without giving proper show cause notice and by violating principles of natural justice.

3. The appellant crave, leave to, add to, alter or amend the aforesaid grounds of appeal.”

3. Facts of the case, in brief, are that the assessee is an individual appointed as business correspondent of Bank of Maharashtra & filed his return of income for the period under consideration on 28.07.2017 declaring total income of Rs.3,22,790/-. The said return of income was selected for scrutiny under CASS. Notices u/s 143(2) and 142(1) of the IT Act were issued to the assessee. Since the assessee failed to comply with the aforesaid notices, the Assessing Officer completed the assessment u/s 144 on a total income of Rs.60,03,790/- as against the income declared by the assessee in its return of income at Rs.3,22,790/-. Above assessed income includes unexplained cash deposits of Rs.56,81,000/-. Since the assessee remained absent, Ld. CIT(A)/NFAC dismissed the appeal. 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 *ex-parte* order passed by Ld. CIT(A)/NFAC & AO 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 his case before the Assessing Officer.

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 the email of the erstwhile counsel was mentioned on the e-portal, who did not informed him about the *ex-parte* orders &

therefore he changed his counsel & filed this appeal before the Tribunal. It is the submission of the counsel of the assessee that the assessee is a business correspondent of Bank of Maharashtra & providing banking facility to the small clients of the bank, & the deposit in the bank was during the course of providing business correspondent facility. In the absence of knowledge of hearing notices the assessee cannot appear either before the AO or before Ld. CIT(A)/NFAC. We find some force in the arguments of Ld. Counsel of the assessee & in the interest of justice, without going into merits of the case, we set-aside the impugned *ex-parte* order passed by Ld. CIT(A)/NFAC and remand the matter back to the file of the AO to pass assessment order afresh 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 the AO in this regard and produce relevant documents/evidences in support of his case, otherwise Ld. AO 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 29th day of November, 2024.

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

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 29th 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, "A" बेंच,
पुणे / DR, ITAT, "A" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

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