

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

BEFORE SHRI MANISH BORAD, ACCOUNTANT MEMBER
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.2099/PUN/2024
निर्धारण वर्ष / Assessment Year : 2015-16

Shri Ganpat Kondeeba Goje, Kune Goan Pts, Khandala Maval, Pune- 411043. PAN : AHAPG8614K	Vs.	ACIT, Circle-8, Pune.
Appellant		Respondent

Assessee by : Shri B. C. Malakar
Revenue by : Shri Arvind Desai

Date of hearing : 05.12.2024
Date of pronouncement : 11.12.2024

आदेश / ORDER

PER VINAY BHAMORE, JM:

This appeal filed by the assessee is directed against the order dated 07.03.2024 passed by Ld. CIT(A)/NFAC for the assessment year 2015-16.

2. Facts of the case, in brief, are that the assessee is an individual furnished his return of income on 27.11.2015 declaring total income of Rs.95,61,170/-. The case was selected for scrutiny under CASS and notice u/s 143(2) was issued to the assessee. During the course of assessment proceedings, it was explained by the assessee that he has sold ancestral property & offered the respective capital gain for

taxation. The Assessing Officer found that the assessee got converted his agricultural land to non-agricultural land but still offered the income under the head “capital gain” instead of “business income”. Accordingly, the assessment was completed determining total income of Rs.2,49,12,224/- as against the income returned by the assessee at Rs.95,61,170/-.

3. Since the assessee remained absent, Ld. CIT(A)/NFAC dismissed the appeal filed by the assessee. 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 us that the *ex-parte* order passed by Ld. CIT(A)/NFAC is not justified. It was submitted that written submissions were furnished before Ld. CIT(A)/NFAC on 13.06.2019, 08.07.2019, 04.02.2021 and 08.11.2022. But none of the submission was considered by Ld. CIT(A)/NFAC and *ex-parte* order was passed. In support of above contentions, copy of written submission furnished on 13.06.2019 is furnished before the Bench. Accordingly, it was requested before the Bench to set-aside *ex-parte* order passed by Ld. CIT(A)/NFAC and further requested to provide one opportunity before Ld. CIT(A)/NFAC to substantiate grounds of appeal.

5. Ld. DR appearing from the side of the Revenue relied on the orders passed by the subordinate authorities and requested to confirm the same.

6. We have heard Ld. Counsels from both the sides and perused the material available on record including the paper book furnished by the counsel of the assessee. We find that admittedly Ld. CIT(A)/NFAC has provided five opportunities to the assessee and according to Ld. CIT(A)/NFAC none of the opportunity was availed by the assessee, accordingly, the appeal was decided *ex-parte* and the grounds of appeal were dismissed. However, we find that Ld. Counsel of the assessee furnished written submission before Ld. CIT(A)/NFAC on 13.06.2019 & copy of the same is also produced before us. From a perusal of above duly acknowledged copy of written submission, we are satisfied that proper response was duly submitted in manual appeal proceedings before Ld. CIT(A) and when the case got transferred to NFAC, Delhi, the same reply already submitted by the assessee was not considered. Under the above facts of the case, we are satisfied with the arguments of the counsel of the assessee that written submission was filed before Ld. CIT(A)/NFAC & the observation of Ld. CIT(A)/NFAC that no response was furnished by the assessee is not correct, accordingly we deem it fit to set-aside the order passed by Ld. CIT(A)/NFAC

and without going into merits of the case, the matter is remanded back to Ld. CIT(A)/NFAC with a direction to decide the appeal afresh as per fact and law after providing reasonable opportunity of hearing to the assessee. The assessee is also hereby directed to respond to the notices issued by Ld. CIT(A)/NFAC in this regard and produce requisite documents/evidences in support of grounds of appeal without taking any adjournment under any pretext, 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 11th day of December, 2024.

Sd/-
(MANISH BORAD)
ACCOUNTANT MEMBER

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 11th December, 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.