



।आयकर अपीलीय अधिकरण "एस एम सी" न्यायपीठ पुणेमें।
IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCHES "SMC" :: PUNE

BEFORE DR.DIPAK P. RIPOTE, ACCOUNTANT
MEMBER AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.2202/PUN/2024

निर्धारण वर्ष / Assessment Year: 2014-15

Rashmi Arun Chogule, 1557, D Ward, Dhanawade Galli, Shukrawar Peth, Kolhapur – 416002. PAN: AEHPC4149R	V s	The Income Tax Officer, Ward-2(1), Kolhapur.
Appellant/ Assessee		Respondent / Revenue

Assessee by	None.
Revenue by	Shir Manish Mehta – Addl.CIT(DR)
Date of hearing	05/12/2024
Date of pronouncement	10/12/2024

आदेश/ ORDER

PER BENCH :

This is an appeal filed by the assessee against the order of
ld.Commissioner of Income Tax(Appeals)[NFAC] for Assessment
Year 2014-15dated 22.08.2024 passed u/sec.250 of the Income tax
Act, 1961. The Assessee has raised the following grounds of
appeal :

*"1 On the facts and in the circumstances of the case and in law,
Commissioner of Income Tax (Appeals), NATIONAL FACELESS
APPEAL CENTRE (NFAC), Delhi, erred in rejecting the appeal, on*



account of the appeal has been filed with a delay of more than five months. The appellant submits that she does not regularly access her email ID and also does not have access to the Income Tax website. The appellate order passed may please be deleted.

2 The Income Tax officer erred in adding a sum of Rs.25,96,575.00 on account of unexplained investment. The appellant has obtained loan of Rs.31,50,000.00 from GEOJIT Financial Services Limited and the same amount had been invested with GEOJIT Comtrade Ltd. The appellant prays that the Income Tax Officer be directed to delete the addition of Rs.25,96,575.00.

3 The Income tax officer failed to appreciate fact that the information received by him is genuine. The Income tax officer passed the assessment order without confirming the information. The appellant prays that the order be quashed.

4 The appellant craves leave to add, amend, modify, alter, revise, substitute, delete any or all grounds of appeal, if deemed necessary at the time of hearing of the appeal.”

Submission of ld.AR :

2. At the outset of hearing, no one appeared on behalf of the assessee. No request for adjournment was filed.

Submission of ld.DR :

3. Ld.Departmental Representative(ld.DR) for the Revenue relied on the order of Assessing Officer and ld.CIT(A).

Findings & Analysis :

4. We have heard ld.DR for the Revenue and perused the records. It is observed that ld.CIT(A) has dismissed the appeal of the assessee on the ground of delay. There was a delay of five



months in filing appeal before the ld.CIT(A). The ld.CIT(A) has not condoned the delay and dismissed the appeal. Assessee in Form No.35 has stated that assessee had not received assessment order and hence there was delay in filing appeal. It has been claimed by assessee that assessee got to know about the assessment order on receiving a call from Department. These facts have been reproduced by ld.CIT(A) in para 2.8.1. However, ld.CIT(A) has not bothered to verify from the Assessing Officer regarding service of assessment order and exact date of service of assessment order. It was the duty of the ld.CIT(A) to verify these facts when assessee has specifically pleaded that assessee had not received assessment order. In this case, assessee had filed Return of Income for A.Y.2014-15 on 09.06.2014 declaring total income of Rs.1,68,000/-. The Assessing Officer issued notice under section 148 of the Act on 31.03.2021. However, in the assessment order it has not been mentioned how this notice was served. It is also not clear from the assessment order whether the notices mentioned in the assessment order were actually served on the assessee or not! As per assessment order, assessee has not filed any reply. Therefore, Assessing Officer passed an ex-parte order treating

Rs.25,96,575/- as undisclosed income. Thus, in this case, even the assessment order was ex-parte.

4.1 In these facts and circumstances of the case, when assessee claimed that assessee has not received copy of assessment order and this fact has not been rebutted by ld.CIT(A), we find there was reasonable cause for delay in filing appeal before the ld.CIT(A). Therefore, we direct the ld.CIT(A) to condone the delay and decide the appeal on merit. Accordingly, the order of ld.CIT(A) is set-aside to ld.CIT(A) for denovo adjudication on merits. Ld.CIT(A) shall provide opportunity of hearing to the assessee.

4.2 It is also observed from the assessment order that copy of reasons recorded for reopening were not provided by the Assessing Officer to the assessee. The Hon'ble Jurisdictional High Court in the case of Sahebrao Deshmukh Co-op Bank Ltd., Vs. ACIT 455 ITR 92 (Bom) has observed in para 16 that "*Assessing Officer was duty bound to issue along with the notice u/sec.148 of the Act the reasons which form the basis for reopening of assessment.....*".

We are duty bound to follow directions issued by the Hon'ble Jurisdictional High Court, even if the assessee has not specifically



pleaded it. Therefore, ld.CIT(A) is also directed to provide copy of the reasons recorded by the Assessing Officer for reopening of assessment. Ld.CIT(A) is directed to comply the directions given by Hon'ble Bombay High Court on this issue. Accordingly, grounds of appeal raised by the assessee are allowed for statistical purpose.

5. In the result, appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open Court on 10th December, 2024.

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

Sd/-
(DR. DIPAK P. RIPOTE)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 10th Dec, 2024/ SGR*

आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.
5. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, "एस एम सी" बेंच, पुणे / DR, ITAT, "SMC" Bench, Pune.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

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