

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.1514/PUN/2024
निर्धारण वर्ष / Assessment Year : 2016-17

Uddhav Dattu Marathe HUF, Prop. of Shri Govind Prabhu Trading Co., At Post Pimpalgaon Hareshwar, Tal. Pachora, Dist. Jalgaon- 424203. PAN : AAAHU6015M	Vs.	ITO, Ward- 2(2), Jalgaon.
Appellant		Respondent

Assessee by : Shri Nikhil Pathak
Revenue by : Shri Basavaraj Hiremath

Date of hearing : 10.12.2024
Date of pronouncement : 17.12.2024

आदेश / ORDER

PER VINAY BHAMORE, JM:

This appeal filed by the assessee is directed against the order dated 28.05.2024 passed by Ld. CIT(A)/NFAC for the assessment year 2016-17.

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

"1] The learned CIT(A) erred in dismissing the appeal of the assessee ex-parte on the ground that there was non compliance on the part of the assessee to the various notices issued by him

and thereby erred in confirming the addition of Rs. 1,62,79,432/- made by the learned A.O.

- 2] *The assessee submits that there was a reasonable cause on its part for the non compliance to the notices issued by the learned CIT(A) and accordingly, requests for one more opportunity to present its case before the learned CIT(A).*
- 3] *The assessee submits that it had not received any physical notice from the office of the ld. CIT(A) and since he is not very well conversant with e- mails and computer, the notices received through portal / mail were not looked into and hence, there was non compliance on the part of the assessee to the notices issued by the learned CIT(A) and hence, requests for one more opportunity to present its case before the learned CIT(A).*
- 4] *The assessee submits that the asst. order passed is bad in law since the notice issued u/s 143(2) was by the wrong officer having no jurisdiction over the case of the assessee and hence, the asst. order passed u/s 143(3) is null and void.*
- 5] *The assessee submits that the addition made of Rs. 1,62,79,432/- is not justified on account of interest received u/s 28 of the Land Acquisition Act since the issue was still under dispute and hence, no addition to be made in the hands of the assessee.*
- 6] *Without prejudice, the assessee submits that the interest received u/s 28 would form part of the compensation received and hence, no addition could be made in the hands of the of the said interest income received u/s 28 of the Land Acquisition Act.*
- 7] *The assessee requests for admission of additional evidences in support of its case.*
- 8] *The appellant craves leave to add, alter, amend or delete any of the above grounds of appeal.”*

3. Facts of the case, in brief, are that the assessee is HUF and the Karta of the HUF is Shri Uddhav Dattu Marathe engaged in the business of trading of food grains under the name and style of M/s. Shri Govind Prabhu Trading Company. The assessee filed its return of income on 15.10.2016 declaring total income of Rs.6,55,250/- and agricultural income at Rs.2,79,414/-. The case was selected

through CASS for scrutiny and notice u/s 143(2) was issued by the Income Tax Officer, Ward-2(1), Jalgaon on 03.07.2017. Further, notice u/s 142(1) was issued by Income Tax Officer, Ward-2(1), Jalgaon and the assessee filed the reply on 03.08.2018 and 14.09.2018, as the jurisdiction over the case lies with Income Tax Officer, Ward-2(2), Jalgaon, the case was received on transfer from the Income Tax Officer-2(1), Jalgaon vide letter dated 14.07.2018, being change in incumbent notice u/s 142(1) r.w.s. 129 was issued on 07.05.2018. Further again notice No. ITBA/AST/F/142(1)/2018-19/1010755955(1) dated 22.10.2018 was issued to the assessee along with questionnaire and the assessee filed its reply vide letter dated 25.10.2018. During the course of assessment proceedings, it was found by the Assessing Officer that the assessee has received interest on compensation from compulsory acquisition of land. Total interest received was Rs.3,25,58,865/- and after giving deduction of 50% u/s 57, the amount of Rs.1,62,79,432/- is added to the total income of the assessee u/s 56(2)(viii) of the IT Act. The assessee along with other pleas also contended that the interest is part of compensation and not taxable, but being unsatisfied with the reply of the assessee, the Assessing Officer completed the assessment u/s 143(3) and determined total income at

Rs.1,69,38,060/- as against the income returned by the assessee at Rs.6,55,250/-. The above assessed income includes 50% of interest on compensation Rs.1,62,79,432/- and also an amount of bank interest on FDRs of Rs.3,378/-.

4. Since the assessee remained absent, Ld. CIT(A)/NFAC dismissed the appeal filed by the assessee for want of prosecution. It is this order against which the assessee is in appeal before this Tribunal.

5. Ld. AR appearing from the side of the assessee submitted before us that *ex-parte* order passed by Ld. CIT(A)/NFAC is not justified. Ld. AR submitted before us that in the grounds of appeal memo Form No.35, the e-mail of the assessee i.e. govindprabhu71@gamil.com was mentioned but Ld. CIT(A)/NFAC sent notices on another e-mail i.e. phladdha@yahoo.com and phladdha1@gamil.com which do not belong to the assessee. It was further contended by Ld. AR that e-mail of the assessee is govindprabhu71@gmail.com and due to this reason, the assessee was unaware with any of the hearing notices issued by Ld. CIT(A)/NFAC. Ld. AR also submitted before the Bench that even otherwise also proper opportunity of hearing was not allowed to the assessee, since the last three notices were issued in a very short span

of 13 days. Accordingly, it was requested before the Bench that one opportunity may kindly be provided to the assessee so that he can submit evidences in support of grounds of appeal before Ld. CIT(A)/NFAC.

6. Ld. DR appearing from the side of the Revenue supported the orders passed by the subordinate authorities and requested to confirm the same.

7. We have heard Ld. Counsels from both the sides and perused the material available on record. We find that admittedly the notices were sent on another e-mail and apart from that out of total four opportunities, last three opportunities were given in a very short span of 13 days. Second notice was issued for 14.05.2024, third notice was issued for 22.05.2024 and the fourth and last opportunity was provided for 27.05.2024. Under the above facts of the case, we are satisfied with the arguments of Ld. Counsel of the assessee that proper opportunity was not provided to the assessee and accordingly in the interest of justice, without going into merits of the case, we deem it appropriate to set-aside the *ex-parte* order passed by Ld. CIT(A)/NFAC & remand the matter back to his file 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.

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

Order pronounced on 17th day of December, 2024.

Sd/-
(MANISH BORAD)
ACCOUNTANT MEMBER

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 17th 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.