



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

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

आयकर अपील सं. / ITA Nos.336 and 337/PUN/2024
Assessment Year : 2015-16

Prasad Ashokchand Kunkulol, Prop. of Prasad Provision, Lane No.3, Main Road, Pundlik Nagar, Garkheda Parisar, Aurangabad – 431 001 Maharashtra PAN : AZWPK5316L	Vs.	ACIT, Circle-3, Aurangabad
Appellant		Respondent

Assessee by	:	Smt. Deepa Khare
Revenue by	:	Shri Basavaraj Hiremath
Date of hearing	:	12.12.2024
Date of pronouncement	:	23.12.2024

आदेश / ORDER

PER DR. MANISH BORAD, ACCOUNTANT MEMBER :

The assessee has instituted the instant two appeals for the A.Y. 2015-16. ITA No.336/PUN/2024 is filed against the quantum addition made by the Assessing Officer u/s.68 of the Act whereas ITA No.337/PUN/2024 is filed against the penalty levied u/s.271D of the Act for the same assessment year, ie.



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2015-16. For the sake of convenience, these appeals were heard together and are being disposed of by this common order.

2. At the outset, we find that ITA No.337/PUN/2024 is time barred by limitation by 196 days. The assessee has filed an affidavit stating that on account of hospitalisation followed by Kidney Transplant, the appeal could not be filed within the stipulated time limit. It is therefore prayed to condone the delay and admit the appeal for adjudication.

3. After hearing both the sides and taking into cognizance of the facts and circumstances, we are of the considered opinion that the delay in filing the appeals deserve to be condoned. Here, we would like to quote the decision of Hon'ble Jurisdictional High Court in the case of *Vijay Vishin Meghani vs. DCIT, 389 ITR 250 (Bom.)* wherein it was held that in the matter of condonation of delay an overall view in the larger interest of justice has to be taken. None should be deprived of an adjudication on merits unless the Court of law or the Tribunal/Appellate Authority finds that the litigant has deliberately and intentionally delayed filing of the appeal, that he is careless, negligent and his conduct is lacking in bonafides. We therefore condone the delay of 196 days in filing the appeal and proceed for adjudication of the appeal.



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4. The laconic facts pertaining the instant appeal are that the assessee is an individual carrying on the business as Estate Agent. For the year under consideration, the assessee filed the return of income for A.Y. 2015-16 on 19.11.2015 disclosing total income of Rs.38,60,570/-. The return was processed u/s.143(1) of the Act. Thereafter, the case selected for Limited Scrutiny under CASS. In pursuance to statutory notices issued u/s.142(1), the assessee furnished the requisite details along with submissions. Based on details filed, the Assessing Officer noticed that assessee received huge unsecured loans which in majorly in cash aggregating to Rs.1,27,59,400/- which are tabulated on page 3 and 4 of the assessment order. The assessee was called upon to explain the genuineness of the above unsecured cash credits. In the absence of any explanation from the side of assessee, the AO made addition of Rs.1,27,59,400/- to the total income of the assessee as unexplained cash credits u/s.68 of the Act.

5. Dissatisfied assessee preferred appeal before the ld.CIT(A)/NFAC who vide impugned order countenanced the action of the Assessing Officer.



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6. Now the assessee is in appeal before the Tribunal challenging the impugned order.

7. The ld. Counsel for the assessee submitted that assessee could not participate in the proceedings before the First Appellate Authority and produce the evidences relating to unsecured loans owing to his critical illness followed by Kidney Transplant. It is therefore prayed for giving one more opportunity to the assessee to represent his case.

8. The ld. Departmental Representative vehemently argued supporting the orders of the authorities.

9. We have heard the rival submissions and perused the record placed before us. It is an admitted position that the assessee made partial compliance in the proceedings before the Assessing Officer whereas in the proceedings before the First Appellate Authority he remained absent which led to passing of the impugned *ex parte*. It is also a fact that ld.CIT(A)/NFAC has not decided the appeal on merits as contemplated u/s.250(6) of the Act. As per the provisions of section 250(6) of the Act, the order of the CIT(A) disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reason for the decision. However, the ld.CIT(A)/NFAC has not followed the provisions of section 250(6) of the I.T. Act.



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During the course of present hearing, the Id. Counsel for the assessee narrated the facts which prevented the assessee from representing its case before the First Appellate Authority. It is the submission of the Id. Counsel for the assessee that given an opportunity the assessee is in a position to substantiate its case by filing the requisite details. Considering the totality of the facts and circumstances of the case, submission of Ld. Counsel for the assessee and in the interest of justice, we deem it proper to restore the issue to the file of Id.CIT(A)/NFAC with a direction to grant one more opportunity to the assessee to substantiate its case by filing the requisite details and adjudicate the issue afresh in accordance with law and then pass a speaking order. In view thereof, without dwelling into merits of the issue, we set-aside the impugned order. Assessee is also directed to remain vigilant and make satisfactory compliance to the notice(s) of hearing issued by Id.CIT(A)/NFAC and should refrain from taking adjournments unless otherwise required for reasonable cause. Grounds of appeal raised by the assessee are allowed for statistical purposes.

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10. The appeal is against the levy of penalty u/s.271D of the Act. Considering the fact that assessee could not place



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necessary evidence before the authorities below, we deem it proper to remit the penalty appeal as well to the file of Id.CIT(A)/NFAC for *denovo* adjudication with similar directions given in ITA No.336/PUN/2024.

11. In the result, both the appeals of the assessee are allowed for statistical purposes.

Order pronounced on this 23rd day of December, 2024.

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

Sd/-
(MANISH BORAD)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 23rd December, 2024.
Satish

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.