



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

BEFORE DR.MANISH BORAD, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.2210/PUN/2024

Assessment Year : 2016-17

Arti Kamlesh Shah, 761/1, Purva Complex, Gadgil Street, Sadashiv Peth, Pune - 411 038 Maharashtra PAN : ADHPS2225B	Vs.	ITO, Ward-5(1), Pune
Appellant		Respondent

Assessee by	:	None
Revenue by	:	Shri Sourabh Nayak
Date of hearing	:	18.12.2024
Date of pronouncement	:	24.12.2024

आदेश / ORDER

PER DR. MANISH BORAD, ACCOUNTANT MEMBER :

This appeal by the assessee pertaining to the Assessment Year 2016-17 is directed against the order dated 28.06.2024 passed by the National Faceless Appeal Centre [in short the "NFAC"] Delhi u/s.250 of the Income-tax Act, 1961 (hereinafter also called 'the Act') which inturn is arising out of the Assessment order passed u/s.147 r.w.s.144 r.w.s.144B dated 23.03.2022.



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2. Briefly stated, the facts of the case are that the assessee is an individual who has not filed the return of income for the A.Y. 2016-17 under the provisions of section 139(1) of the Act. Based on the information provided by the DGIT, the assessee for the year under consideration *inter alia* was found to have purchased an Immovable Property, deposited cash of Rs.10.00 lakh and more etc. The case was reopened by issuance of notice u/s.148 of the Act. Statutory notices u/s.142(1) were also issued. The assessee neither complied with notice u/s.148 nor to the notices issued u/s.142(1) of the Act. Thereafter, a show cause notice dated 11.02.2022 u/s.144 of the Act was issued to the assessee calling upon her to explain the source of investment for purchase of immovable property and source of cash deposited in the savings bank. The assessee furnished a detailed reply along with return of income filed in response to notice u/s.148 of the Act. Eventually, the AO after considering the submissions made by the assessee, made addition of Rs.4,62,000/- in the hands of assessee as unexplained money u/s.69A of the Act.

3. Aggrieved assessee challenged the assessment order before the Id. CIT(A)/NFAC who vide impugned order dismissed the appeal *in limine* for non-prosecution.



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4. Now the assessee is in appeal before the Tribunal.

5. When the appeal was called for, none appeared on behalf of the assessee despite due service of notice of hearing. I therefore proceed to dispose of the appeal with the able assistance from the Id. Departmental Representative *ex parte* qua the assessee.

6. At the very outset, I find that the appeal is time barred by 64 days before the Tribunal. The assessee has filed a condonation petition stating that the notices were sent on the email id pertaining to the Tax Consultant who failed to communicate the same to the assessee. The assessee was unaware of the proceedings. Later on, it came to her knowledge that *ex parte* order u/s.250 of the Act was passed by the Id.CIT(A)/NFAC. Immediately she took steps for filing the appeal with the help of Senior Tax Consultant. The delay in filing the appeal by 54 days is unintentional. It is therefore prayed to condone the delay in light of various decisions including that of decision of Hon'ble Supreme Court in the case of *Collector Land Acquisition Vs. MST Katiji and others 167 ITR 471*.

7. Having gone through the averments made in the condonation petition I am of the opinion that larger interest of justice has to be taken into consideration while adjudicating the matters. 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. Further, the assessee would not have gained anything in filing the appeal with delay. Therefore, the delay of 64 days is condoned and I proceed to adjudicate the matter on merits.

8. Coming to merits of the issue, I have heard the Id. Departmental Representative and perused the record placed before me. On perusal of the assessment order, it would reveal through the explanation furnished before the AO that the assessee along with her husband, who passed away with heart ailment, had purchased the immovable property. It was also stated that her husband made payments through proper source either from his business or through loan. Further, the fact remains that the assessee could not participate in the proceedings before the Id.CIT(A)/NFAC as the notices of hearing remained to be communicated to her by the Tax Consultant. In the event, the Id.CIT(A) passed the impugned order *ex parte* qua the assessee. Considering the facts in entirety and in the interest of natural justice, I am of the opinion that one more opportunity needs to be given to the assessee for representing her case before the Id.CIT(A)/NFAC. In view thereof, without



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dwelling into merits of the issue, the issues on merits are being remitted to the file of Id.CIT(A)/NFAC for *denovo* adjudication. The assessee is also directed to remain vigilant and not to take adjournment unless otherwise required for reasonable cause, failing which the Id.CIT(A)/NFAC shall be free to proceed in accordance with law. Finding of the Id.CIT(A)/NFAC is set aside and Grounds of appeal raised by the assessee are allowed for statistical purposes.

9. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced on this 24th day of December, 2024.

Sd/-
(MANISH BORAD)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 24th December, 2024.
Satish



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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, "SMC" बेंच,
पुणे / DR, ITAT, "SMC" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

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