

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

BEFORE SHRI R. K. PANDA, VICE PRESIDENT
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.1372/PUN/2024
निर्धारण वर्ष / Assessment Year : 2010-11

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| Shri Abhijit Uttamrao Deshmukh, Vithal Niwas, Ganesh Par Road, Parli Vaijanath, Beed, Beed- 431515. PAN : AGWPD1032B | Vs. | ACIT, Aurangabad. Circle-3, |
| Appellant | | Respondent |

Assessee by : Shri Dr. Prayag Jha
Revenue by : Shri Amol Khairnar

Date of hearing : 23.12.2024
Date of pronouncement : 31.12.2024

आदेश / ORDER

PER VINAY BHAMORE, JM:

This appeal filed by the assessee is directed against the order dated 06.05.2024 passed by Ld. CIT(A)/NFAC for the assessment year 2010-11.

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

"1. The Ld CIT(A) erred in not condoning the delay and dismissing the appeal without considering the reasons causing delay and without appreciating that the assessee being chairman of the Maharashtra Shetkari Sugar Mills was facing multiple litigations relating to financial problems of the said organization which was the main cause of delay, apart from others, in filing appeal.

2. *The Ld CIT(A) erred in not appreciating that the Ld Assessing Officer had made addition of Rs. 10,00,00,000/- without appreciating that this amount received as advance towards a transaction in immovable property was returned shortly to the proposed buyer.*

3. *The Ld CIT(A) erred in not appreciating that the Ld Assessing Officer made addition in a mechanical manner without having full facts with him that the transaction for which agreement for sale was made could not be completed and the advances received were returned to the buyer and the assessee earned no amount of income on this transaction.*

4. *The above grounds of appeal are without prejudice to one another.*

5. *The appellant craves leave to furnish Additional Evidence which may be relevant to the above Grounds of Appeal in course of the appeal proceedings.*

6. *The appellant craves leave to amend or alter any of the above Grounds of Appeal or to add new Grounds of Appeal during the course of appeal proceedings.”*

3. Facts of the case, in brief, are that the assessee is an individual and has not filed his return of income for the period under consideration. As per the information received from DDIT (Inv.), Unit-1(4), Pune, the assessee has received an amount of Rs.10 crores in a transaction of land. Therefore, the case was reopened u/s 147 and notices u/s 148 and 142(1) were issued. However, the assessee did not reply to any of the above notices and therefore the assessment was completed u/s 144 r.w.s. 147 on a total income of Rs.10 crores.

4. In first appeal, after considering the submission of the assessee, Ld. CIT(A)/NFAC refused to condone the delay of 180

days and accordingly dismissed the appeal. Ld. CIT(A) also refused to admit the additional evidences furnished by the assessee. 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 dismissal of appeal by Ld. CIT(A)/NFAC without condoning the delay is unjustified. Ld. AR submitted before us that the assessee was prevented by sufficient and reasonable cause for not submitting the appeal within the time limit prescribed under the IT Act. It was submitted that the assessee was facing various civil cases pending in various courts including the National Company Law Tribunal, Mumbai. It was also submitted that the parents of the assessee were seriously ill and there were bank loans which have become overdue. Under the above facts, Ld counsel of the assessee requested before the Bench to set-aside the order passed by Ld. CIT(A)/NFAC and further prayed to direct Ld. CIT(A)/NFAC to condone the delay and decide the appeal afresh on merits of the case.

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 including the paper book and application for admission of additional evidences furnished by the assessee. We find that the assessment order was passed in absence of the assessee and since the appeal was filed belatedly i.e. with a delay of 180 days, Ld. CIT(A)/NFAC has dismissed the appeal without condoning the above said delay. It was the contention of Ld. Counsel of the assessee that the assessee was prevented by sufficient and reasonable cause for not filing the appeal within the prescribed time under the IT Act, since the assessee was facing various civil cases in the court of law as well as facing financial trouble and his parents were also under medical supervision due to critical health conditions. Under the above facts of the case, we find force in the arguments of Ld. Counsel of the assessee that the assessee was prevented by sufficient and reasonable cause in not furnishing the appeal in time and accordingly we hold that Ld. CIT(A)/NFAC erred in not condoning the delay of 180 days in filing of first appeal. Considering the totality of the facts of the case, & in the interest of justice, without going into the merits of the case, we set-aside the order passed by Ld. CIT(A)/NFAC with a direction to condone the delay of 180 days and decide the appeal

on merits as per fact & 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 the requisite documents/additional evidences, if any, 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 this 31st day of December, 2024.

Sd/-
(R. K. PANDA)
VICE PRESIDENT

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 31st 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, "A" बेंच, पुणे / DR, ITAT, "A" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

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