



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

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.959/PUN/2022

निर्धारण वर्ष / Assessment Year : 2012-13

Mr. Shrijit Arvindrao Pawar, A/p. Katewadi, Tal- Baramati, Dist- Pune- 413102. PAN : ARNPP2597D	Vs.	ITO, Ward-14(5), Pune.
Appellant		Respondent

Assessee by : Shri Bhuvnesh Kankni
Revenue by : Smt. Sonal L. Sonkavde

Date of hearing : 11.04.2023
Date of pronouncement : 11.04.2023

आदेश / ORDER

PER INTURI RAMA RAO, AM:

This is an appeal filed by the assessee against the order of the National Faceless Appeal Centre, Delhi ['NFAC'] dated 17.11.2022 for the assessment year 2012-13.

2. The brief facts of the case are that the appellant is a contractor. The Return of Income for the assessment year 2012-13 was filed on 07.10.2013 declaring total income of Rs.2,61,174/-. Subsequently, based on the receipt of information that the appellant had deposited cash in Axis Bank of Rs.10,89,200/-, the Assessing Officer issued a notice u/s 148 on 30.03.2019. The appellant neither filed the return of income nor complied with the notice u/s 142(1) of the Income

Tax Act, 1961 ('the Act'). In the circumstances, the Assessing Officer had proceeded to make the assessment to best of his judgement by making addition of business income @ 10% of the contract receipts shown in the Profit & Loss Account of Rs.63,56,764/- and addition of cash deposit made in the Axis Bank of Rs.10,89,200/-.

3. Being aggrieved by the above additions, an appeal was filed before the NFAC, who vide impugned order partly allowed the appeal of the assessee.

4. Being aggrieved, the appellant is in appeal before this Tribunal in the present appeal.

5. At the outset, ld. AR submitted that the notices u/s 143(2) issued by the Assessing Officer was received by the appellant on 21.11.2019 whereas the assessment was completed by the Assessing Officer on 22.11.2019. Thus, it was submitted that the assessment order was passed in gross violation of principles of natural justice, as the reasonable opportunity was not given to the appellant.

6. On the other hand, ld. Sr. DR has no serious objection to remand the matter to the file of the Assessing Officer for fresh assessment.

7. I heard the rival submissions and perused the material on record. From mere reading of the assessment order, it would reveal that the Assessing Officer had not given reasonable opportunity to

the appellant. The Assessing Officer issued notice u/s 143(2) on 18.11.2019, which was served on the appellant on 21.11.2019. The appellant also filed copy of the record of the Postal Department to prove that the said notice was served on 21.11.2019 and the Assessing Officer had completed the assessment on 22.11.2019. This would clearly demonstrate that the Assessing Officer had not given reasonable opportunity to comply with the notices issued u/s 143(2) of the Act. Thus, the order passed by the Assessing Officer suffers from voice of violation of principles of natural justice. Therefore, I remand the matter to the file of the Assessing Officer for *de novo* assessment in accordance with law.

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

Order pronounced on this 11th day of April, 2023.

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 11th April, 2023.

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, "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.