

आयकर अपीलीय अधिकरण “बी” न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH, PUNE

(Through Virtual Court)

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER
AND
SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

आयकर अपील सं. / ITA No. 528/PUN/2018
निर्धारण वर्ष / Assessment Year : 2013-14

Tanaji Parilal Gawade
At Post. Gawadewadi Wadebolhai
Wagholi, Dist. Pune-412 207
PAN : AJIPG9156G

.....अपीलार्थी / Appellant

बनाम / V/s.

The Income Tax Officer,
Ward 12(4), Pune.

.....प्रत्यर्थी / Respondent

Assessee by : None
Revenue by : Shri Sudhendu Das

सुनवाई की तारीख / Date of Hearing : 27.07.2021
घोषणा की तारीख / Date of Pronouncement : 28.07.2021

आदेश / ORDER

PER S.S. VISWANETHRA RAVI, JM :

This appeal by the assessee is directed against the order dated 22.11.2017 passed by the Ld. CIT(Appeals)-5, Pune for the assessment year 2013-14.

2. We note that an application dated 26.07.2021 filed by the Authorized Representative seeking adjournment for preparation of paper book. On

perusal of the records, we note that the Ld. CIT(Appeals) decided the grounds ex-parte of the assessee without any findings on merits. Therefore, we proceed to hear the appeal and disposing the same by perusing the materials available on record. Thus, adjournment petition filed by the Ld. AR is rejected.

3. The assessee has raised seven grounds amongst which the only issue emanates for our consideration is as to whether the Ld. CIT(Appeals) is justified in dismissing the grounds ex-parte of the assessee in the facts and circumstances of the case.

4. Heard the Ld. DR and perused the materials available on record. We note that the assessee is an individual and engaged in the business of development and sale of plots. The assessee conducts his business under the name and style of M/s. Hindvi Developers. The assessee filed return of income declaring total income of Rs.12,82,228/- and during scrutiny proceedings, the Assessing Officer determined the same at Rs.1,97,65,230/- inter alia making disallowance on account of unexplained cash deposits, unexplained sundry creditors, interest paid to NBFC, depreciation on JCB/Purifier, printing and stationary, entertainment expenses and income from other sources vide its order dated 07.03.2016 passed u/s.144 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act').

5. The assessee being not satisfied preferred an appeal before the Ld. CIT(Appeals). The assessee challenged all the disallowances made by the Assessing Officer in the First Appellate Proceedings by way of appeal instituted on 09.05.2016.

6. Before the Ld. CIT(Appeals), the first notice was issued on 24.07.2017 in respect of which the Ld. AR filed adjournment petition seeking time and from time to time adjournment petitions were filed stating the assessee was not available and he was hospitalized. Accordingly, the Ld. CIT(Appeals) has given many opportunities to the assessee but the assessee could not avail the same in prosecuting the grounds raised before it. Thus, the Ld. CIT(Appeals) by placing reliance on the decision in the case of M/s. Chemipol Vs. Union of India & Ors. in Central Excise Appeal No.62 of 2009, dismissed the grounds raised by the assessee for non-prosecution which clearly shows the grounds were not disposed of by the Ld. CIT(Appeals) on merits but only for non - appearance of the assessee or by his Authorized Representative. Therefore, it clearly shows the rights and liabilities of the assessee were not adjudicated upon by placing reliance on the documentary evidences. Therefore, in our opinion one more opportunity is to be given to the assessee to prosecute the grounds raised before the Ld. CIT(Appeals) as the grounds raised by the assessee regarding disallowance made by the Assessing Officer, requires, in our opinion, assistance of the assessee by relevant documentary evidences.

7. The Ld. DR did not report any objection in remanding the matter to the file of the Ld. CIT(Appeals). Therefore, in the facts and circumstances and in the interest of justice, we deem it appropriate to remand the matter to the file of the Ld. CIT(Appeals) for its fresh adjudication. The assessee shall file necessary evidences, if any, in support of its claim. Thus, grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced on 28th day of July, 2021.

Sd/-
(Inturi Rama Rao)
ACCOUNTANT MEMBER

Sd/-
(S.S. Viswanethra Ravi)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 28th July, 2021.
SB

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(Appeals)-5, Pune.
4. The Pr. CIT-4, Pune.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, “बी” बेंच,
पुणे / DR, ITAT, “B” Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

निजी सचिव / Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.

		Date	
1	Draft dictated on	27.07.2021	Sr.PS/PS
2	Draft placed before author	28.07.2021	Sr.PS/PS
3	Draft proposed and placed before the second Member		JM/AM
4	Draft discussed/approved by second Member		AM/JM
5	Approved draft comes to the Sr. PS/PS		Sr.PS/PS
6	Kept for pronouncement on		Sr.PS/PS
7	Date of uploading of order		Sr.PS/PS
8	File sent to Bench Clerk		Sr.PS/PS
9	Date on which the file goes to the Head Clerk		
10	Date on which file goes to the A.R		
11	Date of dispatch of order		