

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 PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER

आयकर अपील सं. / ITA No. 413/PUN/2018
निर्धारण वर्ष / Assessment Year : 2013-14

The Deputy Commissioner of Income Tax,
Circle-8, Pune.

.....अपीलार्थी / Appellant

बनाम / V/s.

Shri Santosh K. Gawade,
Gentle Breeze, Plot No. 4/6,
Sector-6, PCNTDA Bunglow A/4,
Bhosair, Pune-411 026.
PAN : AFFPG7794D

.....प्रत्यर्थी / Respondent

Revenue by : Shri S.P Walimbe
Assessee by : None

सुनवाई की तारीख / Date of Hearing : 03.06.2021
घोषणा की तारीख / Date of Pronouncement : 14.06.2021

आदेश / ORDER

PER PARTHA SARATHI CHAUDHURY, JM:

This appeal preferred by the Revenue emanates from the order of the
Ld. CIT(Appeals)-8, Pune dated 23.11.2017 for the assessment year 2013-14
as per the grounds of appeal on record.

2. At the time of hearing, none appeared on behalf of the assessee. The submissions of the Ld. DR were recorded and appeal of the Revenue was heard on merits.

3. On perusal of the order of the Ld. CIT(Appeals), it is seen that order of the Ld. CIT(Appeals) is an ex-parte order. That from Para 3 of the Ld. CIT(Appeals)'s order, it is evident that the notice of hearing was issued for hearing on 01.11.2017 for compliance on 08.11.2017. However, none appeared in response to the said notice. Another notice of hearing was issued on 09.11.2017 fixing compliance for 21.11.2017. As per the acknowledgement of the Post Office, this notice was received by one Ms. Suman. However, none appeared in response to this notice also. Thereafter, the Ld. CIT(Appeals) proceeded to decide the matter based on materials available on record specifically Form 35 along with relevant documents i.e. statement of facts and grounds of appeal.

4. We further observe that last opportunity given to the assessee was on 21.11.2017 and the order of the Ld. CIT(Appeal) was passed on 23.11.2017. That from the chain of events, we are of the considered view that sufficient opportunity was not provided to the assessee by the Ld. CIT(Appeals). He passed an ex-parte order wherein rights and liabilities of the parties are yet to be decided. The Ld. DR submitted that he does not have any objection if the matter is remanded to the file of the Ld. CIT(Appeals) for re-adjudication on merits. In view thereof, we set aside the order of the Ld. CIT(Appeals) and remand the matter back to his file to re-adjudicate while complying with the principles of natural justice and as per law. At the same time, the assessee is directed to be present before the Ld. CIT(Appeals) with all the requisite details/ evidences to represent his case on merits.

5. In the result, **appeal of the Revenue is allowed for statistical purposes.**

Order pronounced on 14th day of June, 2021.

Sd/-
INTURI RAMA RAO
ACCOUNTANT MEMBER

Sd/-
PARTHA SARATHI CHAUDHURY
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 14th June, 2021
SB

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(Appeals)-8, Pune.
4. The Pr. CIT-5, 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	03.06.2021	Sr.PS/PS
2	Draft placed before author	14.06.2021	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		