

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH “SMC”, PUNE

BEFORE SHRI S. S. GODARA, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.406/PUN/2020

निर्धारण वर्ष / Assessment Year: 2009-10

Gourishankar Girdharilal Lohiya (HUF), Abdulla Complex, Subhas Road, Jalna-431203. PAN : AAAHL3831L	Vs.	ACIT, Circle-1, Aurangabad.
Appellant		Respondent

Assessee by : Shri Harshit Kabra

Revenue by : Shri Arvind Desai

Date of hearing : 23.05.2022

Date of pronouncement : 26.05.2022

आदेश / ORDER

PER S. S. GODARA, JM:

This assessee's appeal for assessment year 2009-10 arises against the CIT(A)-1 Aurangabad's order dated 17.02.2020 passed in case no.ABD/CIT(A)-1/199/2011-12 involving proceedings u/s 143(3) of the Income Tax Act, 1961; in short the Act.

Heard both the parties. Case file perused.

2. I straightway advert to the assessee's latter substantive ground challenging correctness of the impugned assessment order/reassessment order itself dated 19.12.2011 for want of a valid section 143(2) notice in light of ACIT vs. Hotel Blue Moon (2010) 321 ITR 362 (SC).

3. Mr. Desai invited my attention to page 59 in assessee's paper book containing the Assessing Officer's section 143(2) notice dated 01.09.2010. The same turns out not to have been issued to the assessee (HUF) having PAN No.AAAHL3831L but to Shri Lohia Gourishankar G having PAN No.AAKPL3064D which makes it clear cut instance of non-issuance of a valid section 143(2) notice held to be mandatory condition in the foregoing landmark decision. I accordingly quash the impugned assessment itself for this precise legal reason alone. All other pleading on merits are rendered academic.

Delay of 35 days in filing is condoned since falling in Covid-19 outbreak period.

4. This assessee's appeal is allowed in above terms.

Order pronounced on this 26th day of May, 2022.

Sd/-
(S. S. GODARA)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 26th May, 2022.

Sujeet (DOC)

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-1, Aurangabad.
4. The Pr. CIT-1, Aurangabad.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "SMC" बेंच, पुणे / DR, ITAT, "SMC" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

// True Copy //

आदेशानुसार / BY ORDER,

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