

**आयकर अपीलीय अधिकरण, मुंबई न्यायपीठ, ए, मुंबई ।**

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCHES "A", MUMBAI**

**श्री जोगिन्दर सिंह, न्यायिक सदस्य एवं**

**श्री संजय अरोड़ा, लेखा सदस्य, के समक्ष**

**Before Shri Joginder Singh, Judicial Member, and  
Shri Sanjay Arora, Accountant Member**

**ITA NO.3300/Mum/2012  
Assessment Year: 2008-09**

Automobile Products of India Limited, 63-A, North Phase, SIDCO, Ambattur, Chennai-600098	<b>बनाम/ Vs.</b>	ACIT-10(3), Mumbai
(निर्धारिती / Assessee)		(राजस्व / Revenue)
PAN. No.AABCA0725C		

निर्धारिती की ओर से / Assessee by	Ms. Vasanti Patel
राजस्व की ओर से / Revenue by	Shri Asghar Zain

सुनवाई की तारीख / <b>Date of Hearing :</b>	<b>09/12/2015</b>
<b>आदेश की तारीख / Date of Order:</b>	<b>09/12/2015</b>

**आदेश / O R D E R**

**Per Joginder Singh (Judicial Member)**

The assessee is aggrieved by the impugned order dated 09/03/2012 of the Id. First Appellate Authority, Mumbai. Though the assessee has raised many grounds but the crux of argument is that the ex-parte order has been passed by the Id. First Appellate Authority without giving further opportunity of

being heard to the assessee causing loss to the assessee and there is violation of principle of natural justice.

2. During hearing, Ms. Vasanti patel, ld. counsel for the assessee, advanced arguments, which are identical to the ground raised by further inviting our attention to the affidavit of the assessee duly sworn by Shri Kumar Srinivasan, Director of the assessee company. The ld. counsel reiterated the factual matrix mentioned in the aforesaid order. The crux of the argument and the factual matrix mentioned in the affidavit is that Shri M.B. Shridharan is a senior chartered accountant, who was authorized to appear before the ld. Commissioner of Income Tax (Appeals) and he, being, based in Chennai could not appear before the ld. Commissioner of Income Tax (Appeals) on later dates causing inconvenience/injustice to the assessee, therefore, the ld. Commissioner of Income Tax (Appeals) passed practically ex-parte order. On the other hand, the ld. DR, Shri Asghar Zain, defended the conclusion arrived at in the impugned order by submitting that it was the duty of the assessee to arrange another counsel and further to remain vigilant.

2.1. We have considered the rival submissions and perused the material available on record. In view of the above factual matrix and without going into much deliberation, we are of the view that even per mandate of Article 265 of the Constitution of India, due taxes can only be levied/collected, therefore, on the principle of natural justice, we remand this

appeal to the file of the ld. Commissioner of Income Tax (Appeals) to examine the claim of the assessee and after providing due opportunity of being heard, with further liberty, to furnish evidence, if any, in support of its claims, decide the appeal in accordance with law, afresh. Keeping in view, the past history of the assessee, it is directed that the assessee is to remain vigilant in future and to appear before the ld. First Appellate Authority within one month from the receipt of this order for early disposal of the appeal. The ld. Commissioner of Income Tax (Appeals) is at liberty to dispose of the appeal on merit either on appearance of the assessee are on a later mutually agreed date. Thus, the appeal of the assessee is only allowed for statistical purposes.

Finally, the appeal of the assessee is allowed for statistical purposes only.

This order was pronounced in the open court in the presence of the ld. representative from both sides at the conclusion of the hearing on 09/12/2015

Sd/-

(Sanjay Arora)

लेखा सदस्य / ACCOUNTANT MEMBER

मुंबई Mumbai; दिनांक Dated : 09/12/2015

*Shekhar, P.S./नि.स.*

Sd/-

(Joginder Singh)

न्यायिक सदस्य / JUDICIAL MEMBER

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.

3. आयकर आयुक्त(अपील) / The CIT, Mumbai.
4. आयकर आयुक्त / CIT(A)- , Mumbai
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR,  
ITAT, Mumbai
6. गार्ड फाईल / Guard file.

**आदेशानुसार/ BY ORDER,**

सत्यापित प्रति //True Copy//

**उप/सहायक पंजीकार (Dy./Asstt. Registrar)  
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai**