

आयकर अपीलिय अधिकरण, मुंबई न्यायपीठ "बी" मुंबई
IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, MUMBAI

BEFORE SHRI MAHAVIR SINGH, JM AND SHRI RAJESH KUMAR, AM
श्री महाविर सिंग, न्यायिक सदस्य एवं श्री राजेश कुमार, लेखा सदस्य के समक्ष

आयकर अपील सं./I.T.A. No. 6632/Mum/2014

(निर्धारण वर्ष / Assessment Year: 2010-11)

Shri Nilesh Badani, C/o Jayesh Sanghrajka and Co., Chartered Accountants Unit No.405, Hind Rajasthan Centre, D S Phalke road, Dadar (E), Mumbai-400014	बनाम/ Vs.	Dy.Commissioner of Income Tax- 10(3), Aaykar Bhavan, M K Road, Mumbai-400 020
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

स्थायी लेखा सं./जीआइआर सं./PAN. : **AABPB9925C**

अपीलार्थी की ओर से / Assessee by	Shri Margav Shukla
प्रत्यर्थी की ओर से/Assessee by	Shri Suman Kumar

सुनवाई की तारीख /Date of Hearing	:	4.4.2017
घोषणा की तारीख /Date of Pronouncement	:	12.4.2017

आदेश / ORDER

PER RAJESH KUMAR, A. M:

This is an appeal filed by the assessee challenging the order dated 25.9.2014 passed by the Id.CIT(A)-22, Mumbai for the assessment year 2010-11.

2. At the outset, the Id.AR submitted before us that the Id.CIT(A) has grossly erred in confirming the assessment order without affording the fair

and reasonable opportunity to the assessee to represent his case thereby causing gross violation of principle of natural justice and requested for annulling/quashing the appellate order passed by the FAA.

3. The Id. DR on the other hand opposed the submissions of the Id.AR qua the quashing or annulling the order of FAA but fairly submitted that if at all the opportunity of hearing was not granted or principle of natural justice was violated, at the most the matter could be set aside to the file of the Id.CIT(A) for adjudication denovo as per facts and law.

4. We have considered the rival submissions and perused the material placed before us including the impugned orders. We find that the assessee in ground no.4 has raised the issue of violation of principle of natural justice resulting from non-granting of fair and reasonable opportunity to the assessee to represent his case. We are of the considered opinion that principle of natural justice would be met if the assessee is granted one more opportunity of hearing as also no prejudice would be caused to the revenue if the appeal is restored back to the file of the AO. Accordingly, we restore this appeal to the file of the AO for denovo adjudication as per law after affording reasonable opportunity to the assessee to represent his case.

5. In the result, the appeal of the assessee stands allowed for statistical purposes.

Order pronounced in the open court on 12th April, 2017.

Sd
(MAHAVIR SINGH)
Judicial Member

sd
(RAJESH KUMAR)
Accountant Member

मुंबई Mumbai: 12th April, 2017.

व.नि.स./ SRL , Sr. PS

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. आयकर आयुक्त(अपील) / The CIT(A)
4. आयकर आयुक्त / CIT – concerned
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard File

आदेशानुसार/ BY ORDER,

True copy

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