

आयकर अपीलीय अधिकरण, मुंबई न्यायपीठ "बी" मुंबई
IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, MUMBAI
BEFORE S/SHRI B.R.BASKARAN, AM AND PAWAN SINGH, JM

आयकर अपील सं./I.T.A. No.6077/Mum/ 2011
(निर्धारण वर्ष / Assessment Year: 2007-08)

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|---|---------------------|---|
| Mrs.Nayna Pradip Patel, 47/394, Unnat Nagar, Goregaon (W), Mumbai-400062 | बनाम/ Vs. | Income Tax Officer 24(3)(2), Mumbai. |
| (अपीलार्थी /Appellant) | .. | (प्रत्यर्थी / Respondent) |

स्थायी लेखा सं./जीआइआर सं./PAN. :AAGPP3015Q

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|------------------------------------|------------------------|
| अपीलार्थी ओर से / Appellant by | Shri S C Tiwari |
| प्रत्यर्थी की ओर से/ Respondent by | Shri D Prabhakar Reddy |

सुनवाई की तारीख / Date of Hearing : 14.3.2016

घोषणा की तारीख /Date of Pronouncement: 14.3.2016

आदेश / ORDER

Per B R Baskaran, AM:

The appeal filed by the assessee is directed against the order dated 21.7.2011 passed by the Id.CIT(A)-34, Mumbai and it relates to the assessment year 2007-08.

2. We heard the parties and perused the record. We notice that the AO has passed an assessment order to the best of his judgment u/s 144 of the Act. The Id.counsel submitted that the assessee did not receive the notice issued by the AO and hence it could not appear before the AO. The assessee also obtained a copy of assessment order upon receipt of the demand notice and thereafter filed the appeal before the Id.CIT(A) belatedly. However, the Id. CIT(A) has dismissed the appeal in-limine without appreciating the above said facts.

3. The Id. DR produced assessment record and on perusal of the same, we notice that the AO has issued notice to a wrong address and hence, there is merit in the contention of the assessee that she did not receive notice issued by the AO. Accordingly, in the interest natural justice, we are of the view that the issues urged in this appeal require fresh examination at the end of the AO. Accordingly, we set aside the order of the Id. CIT(A) and restore all the issues to the file of the AO for fresh examination of the same, after affording necessary opportunity of being heard to the assessee.

4. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Pronounced accordingly on 14th March, 2016.

घोषणा खुले न्यायालय में दिनांक: 14th March, 2016 को की गई ।

Sd

**(PAWAN SINGH)
JUDICIAL MEMBER**

sd

**(B.R. BASKARAN)
ACCOUNTANT MEMBER**

मुंबई Mumbai: 14th March, 2016.

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)- concerned
4. आयकर आयुक्त / CIT concerned
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई /
DR, ITAT, Mumbai concerned
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

True copy

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