

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "I", MUMBAI**

**BEFORE SHRI G.S. PANNU, ACCOUNTANT MEMBER AND
SHRI AMARJIT SINGH, JUDICIAL MEMBER**

ITA NO. 2371/MUM/2015 : (A.Y : 2010-11)

Kashinath Kolekar
1111/48, Rameshwar CHS,
Kannamwar Nagar No. 1,
Vikhroli (E), Mumbai 400 083.
PAN : ASTPK9437E (Appellant)

Vs. ITO-22(1)(3),
Mumbai (Respondent)

Assessee by : None
Revenue by : Shri A.K. Kardam

Date of Hearing : 20/07/2016
Date of Pronouncement : 12/08/2016

ORDER

PER G.S. PANNU, AM :

The captioned appeal by the assessee is directed against the order of CIT(A)-25, Mumbai dated 29.01.2015, pertaining to the Assessment Year 2010-11, which in turn has arisen from the order passed by the Assessing Officer dated 28.03.2013 under section 143(3) of the Income Tax Act, 1961 (in short 'the Act').

2. In spite of issuance of notice, none appeared on behalf of the assessee at the time of hearing, therefore, we proceed to decide the appeal *ex parte qua* the assessee after hearing the Ld. DR on merit in terms of Rule 24 of the Appellate Tribunal Rules, 1963.

3. In this appeal, the first and the foremost plea of the assessee is that the CIT(A) erred in disposing the appeal of the assessee *ex parte* without deciding on merits of the grounds raised before him.

4. In brief, the relevant facts are that assessee is an individual whose return of income for Assessment Year 2010-11 was subject to scrutiny assessment whereby the total income was assessed at Rs.1,77,22,266/- as against the returned income of Rs.4,62,130/-. In the scrutiny assessment, various additions were made to the returned income, which were challenged in appeal before the CIT(A). CIT(A) has dismissed the appeal without going into the merits of the case as according to him assessee was not interested in pursuing the appeal. As per CIT(A) nobody appeared on behalf of the assessee inspite of issuing of notice of hearing.

5. At the time of hearing, it was pointed out to the Ld. DR that the CIT(A) has dismissed the appeal without deciding on merits the grounds raised before him, which is unsustainable. It was therefore pointed out that the matter deserves to be revisited by the CIT(A) as per law.

6. Having considered the impugned order and the submissions of the Ld. DR, we find that in the present case the appeal of the assessee has been dismissed by the Commissioner (Appeals) without going into the merits of the issues raised before him. Sec. 250(6) of the Act prescribes that the order of the Commissioner (Appeals) disposing of the appeal shall be in writing and shall state the points for

determination, the decision thereon and the reasons for such a decision. Ostensibly, the CIT(A) is obligated to dispose of the appeal in the manner prescribed in Sec. 250(6) of the Act, which requires that the issues raised before him by way of the Grounds of appeal are addressed, decision rendered thereon by stating the reasons for such a decision. The said approach is conspicuous by its absence in the impugned order of the CIT(A), wherein the appeal has been dismissed *in limine* without adverting to the merits of the Grounds of appeal raised before him. Therefore, on this count itself, the impugned order of CIT(A) is unsustainable. Be that as it may, we deem it fit and proper to set-aside the impugned order of CIT(A) and remand the appeal back to his file for adjudication afresh as per law after allowing the assessee a reasonable opportunity of being heard.

7. Before parting, we may also state that the CIT(A) has not condoned the delay in filing of appeal. This aspect shall also be revisited by the CIT(A) in the ensuing remand proceedings after hearing the assessee, as per law.

8. In the result, appeal of the assessee is allowed, as above.

Order pronounced in the open court on 12th August, 2016.

Sd/-
(AMARJIT SINGH)
JUDICIAL MEMBER

Sd/-
(G.S. PANNU)
ACCOUNTANT MEMBER

Mumbai, Date : 12th August, 2016

SSL

Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The CIT(A) concerned
- 4) The CIT concerned
- 5) The D.R, "I" Bench, Mumbai
- 6) Guard file

By Order

Dy./Asstt. Registrar
I.T.A.T, Mumbai