

IN THE INCOME TAX APPELLATE TRIBUNAL  
“D” Bench, Mumbai  
Before Shri B.R. Baskaran (AM) & Shri Ravish Sood(JM)

I.T.A. No. 2309/Mum/2016  
(Assessment Year 2011-12)

Shree Sai Developers Dreamland Apartment No. 1977, Opp. S.T. Stand Bhiwandi-421 302. (Appellant)	Vs.	ITO-1(4) Kalyan Thane. (Respondent)
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PAN No. ABQFS4653J

Assessee by	Shri Sachin Romani
Department by	Shri Purushottam Kumar
Date of Hearing	2.1.2017
Date of Pronouncement	2.1.2017

O R D E R

Per B.R. Baskaran (AM) :-

The appeal filed by the assessee is directed against the order dated 17.2.2016 passed by the learned CIT(A)-2, Aurangabad and it relates to A.Y. 2011-12.

2. Learned counsel appearing for the assessee submitted that the learned CIT(A) has passed an ex-parte order on the reasoning that the assessee did not appear before him on the dates fixed on earlier occasions also. Learned Counsel submitted that the assessee did not receive notices mentioned in paragraph 4 of the order passed by the learned CIT(A). He submitted that the assessee received notice dated 6.10.2015 fixing the appeal on 27.10.2015. He submitted that the learned CIT(A)-2, Thane has issued the above said notice and in response thereto the assessee duly filed a letter dated 27.10.2015 seeking the adjournment. He submitted that the learned CIT(A)-2, Aurangabad has passed the impugned order, wherein he did not refer to the notice dated 6.10.2015 issued by the learned CIT(A)-2, Thane. Accordingly, he submitted that the assessee did not appear before the learned CIT(A) for the reasons

beyond its control. Accordingly he prayed that the matter may be restored to the file of the learned CIT(A) for adjudicating the issues afresh.

3. Learned Departmental Representative on the contrary submitted that the assessee did not appear before the learned CIT(A) on four occasions as stated in paragraph 4 of the order passed by the learned CIT(A).

4. Having heard the rival submissions, we are of the view that the assessee should be given an opportunity, in the interest of natural justice, to represent its case before the learned CIT(A). We notice that the assessee has received notice from learned CIT(A)-2, Thane on 27.10.2015 and the assessee has responded to that notice by filing an application seeking adjournment. According to the assessee none of the notices referred to by the learned CIT(A)-2, Aurangabad in paragraph 4 of the order were received by it. We also noticed that the order has been passed by the learned CIT(A)-2, Aurangabad and he did not refer to the notice issued by the learned CIT(A)-2, Thane on 27.10.2015. Under these set of facts, we are of the view that there appears to be some confusion in the matter of issuing notice. We have noticed that the assessee has filed a letter in response to the notice received by it. Hence we are of the view that there was a reasonable cause for the assessee in not appearing before the learned CIT(A). Accordingly we feel it proper to restore all the issues to the file of the learned CIT(A) for adjudicating them afresh. Accordingly, we set aside the order passed by the learned CIT(A) and restore all the issues to his file with the direction to adjudicate them afresh after affording adequate opportunity of being heard to the assessee.

5. In the result, appeal filed by the assessee is treated as allowed for statistical purposes.

Order has been pronounced in the Court on 02.1.2017.

SD/-  
(RAVISH SOOD)  
JUDICIAL MEMBER

SD/-  
(B.R.BASKARAN)  
ACCOUNTANT MEMBER

Mumbai; Dated : 2/1/2017

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai
6. Guard File.

//True Copy//

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BY ORDER,

(Dy./Asstt. Registrar)  
ITAT, Mumbai