

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. 4760/Mum/2015  
(Assessment Year : 2009-10)

M/s. Institute of Indian Interior Designers,

109, Sumer Kendra,

Pandurang Budhkar Marg,

Mumbai 400 018

PAN: AAATI0712K

Vs.

..... Appellant

The ITO (Exemption) II(1)

Piramal Chamber, 5<sup>th</sup> Floor,

Lalbaug, Mumbai 400 012.

.... Respondent

Appellant by : Shri Rakesh

Respondent by : Shri Deepak Ripote

Date of hearing : 10/07/2016

Date of pronouncement : 17/08/2016

**ORDER**

PER G.S.PANNU,A.M:

The captioned appeal filed by the assessee pertaining to assessment year 2010-11 is directed against an order passed by CIT(A)-7, Mumbai dated 30/04/2015, which in turn arises out of an order passed by the Assessing Officer under section 143(3) of the Income Tax Act, 1961 (in short 'the Act') dated 26/03/2013.

2. In this appeal, the primary dispute arises from the action of the income tax authorities in denying exemption under section 11 of the

Act on the ground that the activities carried on by the assessee are in the nature of business and not for charitable purposes.

3. The relevant facts are that the assessee Trust filed its return of income declaring 'Nil' income, wherein exemption under sections 11/12 of the Act was claimed. In the assessment proceedings the Assessing Officer came to conclude that in view of the proviso inserted in section 2(15) of the Act w.e.f. 01/04/2009 assessee was not entitled to exemption as it was carrying on activities in the nature of business and also charging fee for such services. Accordingly, the total income was assessed at Rs.1,12,18,840/- after denying the exemption under section 11 of the Act. The assessee filed an appeal before CIT(A) challenging the order of the Assessing Officer on facts and in law. The CIT(A) has dismissed the appeal of the assessee primarily on the ground that assessee did not appear in response to the notices issued for hearing. According to the CIT(A) absence of the assessee showed that it was not interested in prosecuting the appeal. The CIT(A) proceeded to uphold the action of the Assessing Officer on the basis of the discussion made in the assessment order itself. Against such a decision of the CIT(A), assessee is in further appeal before us.

4. Before us, the Ld. Representative for the assessee, at the outset, pointed out that the CIT(A) has misdirected himself in concluding that assessee was not interested in pursuing the appeal. It was pointed out that due to certain unavoidable reasons, appearance could not be made before the CIT(A) on the appointed date of hearing. So however, it was submitted that the assessee would be satisfied for the present if

the matter is restored back to the file of CIT(A) for adjudication afresh after hearing the assessee on merits.

5. The Ld. Departmental Representative has not opposed the plea of the assessee for remanding the matter back to the file of Assessing Officer.

6. Having considered the rival stands, we find that the CIT(A) has primarily proceeded on the basis of the stand taken by the Assessing Officer in the assessment order. It is also evident that the CIT(A) has not adverted to the Grounds of appeal raised before him and, therefore, in our view the appeal has been dismissed in a manner, which is non-compliant with the requirements of section 250(6) of the Act. Ostensibly, the CIT(A) is obligated to dispose of the appeal in the manner prescribed in section 250(6) of the Act, which requires that the issues raised before him by way of 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 appropriately adverted to the merits of the Grounds of appeal raised before him. Therefore, on this count itself the impugned order of the CIT(A) is unsustainable. Be that as it may, we hereby set-aside the order of CIT(A) and restore the matter back to his file for adjudication afresh, after allowing the assessee a reasonable opportunity of being heard in accordance with law.

7. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 17/08/2016

Sd/-  
(AMARJIT SINGH)  
JUDICIAL MEMBER

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

Mumbai, Dated 17/08/2016  
Vm, Sr. PS

**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//

BY ORDER,

(Dy./Asstt. Registrar)  
**ITAT, Mumbai**