

IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCHES "C", MUMBAI

Before S/Shri G S Pannu, AM, & Saktijit Dey, JM

I T A No. 2217 /Mum/2013  
Assessment Year 2009 - 10

Chandrabhshan R Singh 601 A Wing, Aurus Chambers, Behind Mahindra Towers, S S Amruthwar Marg, Worli, Mumbai- 400 013 <b>PAN : ASZPSO713K</b>	Vs.	ITO Range 25(3)(1) Mumbai
(Appellant)		(Respondent)

Appellant By : Shri Tejas Sodha  
Respondent By : Shri Rajat Mittal (Sr DR)

Date of Hearing :24.03.2017	Date of Pronouncement :05.04.2017
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**ORDER**

**Per Saktijit Dey, Judicial Member:**

This appeal by the assessee is against the order dated 18.01.2013, of the learned CIT(A) -35, Mumbai for A.Y. 2009-10.

2. Briefly, facts are that the assessee, an individual, is engaged in business activity through his proprietary concern M/s. Sandip Metal Furnishing. For the assessment year under dispute, the assessee has filed return of income on 31.03.2010 declaring total income at Rs.1,95,000/-. Assessment in the case of the assessee was completed u/s. 143(3) by making addition of Rs.27,51,302/- as unexplained investment and Rs.4,59,97/- towards income from house property. As a result, total income was

determined at Rs.34,05,799/-. Being aggrieved of the assessment order so passed, assessee preferred appeal before the CIT(A). However, the learned CIT(A) alleging that inspite of number of opportunities being granted to the assessee, no one appeared on behalf of the assessee, proceeded to decide the appeal exparte and ultimately sustained the additions made by the AO by dismissing the appeal.

3. The learned AR explaining the reason for non-appearance before the CIT(A) through an affidavit of the assessee, submitted that though the notices received from the office of the CIT(A) were duly forwarded to his erstwhile Chartered Accountant, he did not appear. The assessee could only come to know about the exparte disposal of his appeal after receiving the order of the CIT(A). Therefore, the learned AR submitted, since the assessee was totally ignorant about non-representation of his case, the matter may be restored to the CIT(A) for enabling the assessee to represent his case in a proper manner.

4. The learned DR has no objection in restoring the matter back to the CIT(A) for hearing afresh.

5. We have considered the submissions of the parties and perused the material on record. The limited grievance of the assessee before us is, since the appeal before the first appellate authority was decided exparte, the assessee was prevented from explaining its case in respect of the additions

made, hence, one more opportunity should be given to the assessee. Considering the aforesaid submissions of the assessee and keeping in view the averments made in the affidavit, in the interest of justice, we are inclined to restore the matter to the CIT(A) for enabling the assessee to represent his case effectively. We make it clear, the assessee must respond to the notice of hearing to be issued by the CIT(A) and appear before him to represent his case in a proper manner with supporting evidences. In the event of any further default on the part of the assessee, the CIT(A) will be free to decide the appeal on its own merit on the basis of material available on record and in accordance with law.

6. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on this 5<sup>th</sup> day of April 2017

Sd/-

**(G S Pannu)**

**ACCOUNTANT MEMBER**

Mumbai; Dated : 5<sup>th</sup> April, 2017.

Sd/-

**(Saktijit Dey)**

**JUDICIAL MEMBER**

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**Copy of the Order forwarded to :**

1. The Appellant.
2. The Respondent.
3. The CIT(A), Mumbai.
4. The CIT
5. DR, 'C' Bench, ITAT, Mumbai

BY ORDER,

//True Copy//

(Assistant Registrar)

Income Tax Appellate Tribunal, Mumbai