

आयकर अपीलीय अधिकरण, मुंबई न्यायपीठ 'F', मुंबई ।
IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCHES "F", MUMBAI

Before Shri Shamim Yahya, AM & Shri Sandeep Gosain, JM

ITA No.3181/Mum/2016 : Asst.Year 2004-2005

M/s.GLB Finvest Private Limited (Formerly known as Sweet Marketing (I) Pvt. Ltd., 504 Nain kripa 118/122, Kazi Sayed Street Mumbai . PAN : AAACS6731R.	बनाम/ Vs.	The Asst.Commissioner of Income-tax Central Circle 20 Mumbai.
(अपीलार्थी /Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से /Appellant by : **Shri Sobit Jain**
प्रत्यर्थी की ओर से /Respondent by : **Ms.Pooja Swaroop**

सुनवाई की तारीख / Date of Hearing : 22.05.2017	घोषणा की तारीख / Date of Pronouncement : 05.06.2017
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आदेश / ORDER

This appeal by the assessee is directed against order of learned CIT(A) dated 29.02.2016 and pertains to assessment year 2004-2005.

2. In this case the learned CIT(A) has dismissed the appeal for non-prosecution. Assessee has filed a petition for adjournment before us as the quantum appeal is pending for adjudication. However, since the learned CIT(A) has not passed any order on merits, we have rejected the said petition by the assessee.

3. Upon careful consideration, we find that learned CIT(A) in this case should have passed an order on the merits of the case and should not have dismissed the appeal for non-prosecution. For this proposition, we rely upon following case laws:-

- (i) CIT v. T.A.Luthara HUF 240 Taxman 133 (Bombay)
(ii) CIT v. S.Chenniappa Mudaliar [(1969) 74 ITR 41 (SC)]

4. In view of the aforesaid precedents, in our considered opinion the issue raised in the appeal needs to be remitted to the file of learned CIT(A). The learned CIT(A) shall consider the issue afresh after giving the assessee an opportunity of being heard and accordingly pass an order on the merits of the case.

5. In the result, this appeal filed by the assessee stands allowed for statistical purposes.

Order pronounced on this 5th day of June, 2017.

Sd/-
(Sandeep Gosain)
JUDICIAL MEMBER

Sd/-
(Shamim Yahya)
ACCOUNTANT MEMBER

मुंबई Mumbai; दिनांक Dated : 5th June, 2017.
Devdas*

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT, Mumbai.
4. आयकर आयुक्त / CIT(A)-51, Mumbai
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

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