



ITA NO.2057/Mum/2016
Kamlesh Bhanushali
Assessment Year 2009-10

आयकर अपीलीय अधिकरण "डी" न्यायपीठ मुंबई में।

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

श्री सी. नागेंद्र प्रसाद, न्यायिक सदस्य एवं
श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष ।
**BEFORE SHRI C.N. PRASAD, JM AND
SHRI MANOJ KUMAR AGGARWAL, AM**

आयकर अपील सं./I.T.A. No.2057/Mum/2016
(निर्धारण वर्ष / Assessment Year: 2009-10)

Kamlesh Bhanushali Godown No.69, Kanji Manji Estt. N.S.S.Road, Ghatkopar(W) Mumbai-400 086	बनाम/ Vs.	Income Tax Officer 22(1)(3) Mumbai -400 020
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No.AABPB-8849-F		
(पीलार्थी / Appellant)	:	(प्रत्यर्थी / Respondent)

Revenue by	:	Purushottam Kumar Aggarwal, Ld. DR
Assessee by	:	None

सुनवाई की तारीख / Date of Hearing	:	21/11/2017
घोषणा की तारीख / Date of Pronouncement	:	08/12 /2017

/ O R D E R

Per Manoj Kumar Aggarwal (Accountant Member)

1. The captioned appeal by assessee for Assessment Year [AY] 2009-10 assails the order of the Ld. Commissioner of Income-Tax (Appeals)-33



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CIT(A)], Mumbai, *Appeal No. CIT(A)-33/IT/197/13-14* dated 31/10/2014.

The assessment for impugned AY was framed u/s 143(3) *read with Section 147* on 14/03/2013 by *Ld. Income Tax Officer Ward-22(1)(3), Mumbai [AO]*.

None has appeared for assessee despite notice and no adjournment application is on record. Left with no option, we proceed to dispose-off the appeal on the basis of material available on record and after hearing *Ld. Departmental Representative [DR]*.

2.1 Briefly stated the assessee being *resident individual* engaged in *trading of gunny bags* was assessed for impugned AY at Rs.28,42,640/- after certain additions as against returned income of Rs.1,37,657/- filed by the assessee on 30/03/2010. The major addition was addition of cash credit u/s 68 for Rs.25.23 Lacs, being cash deposited by assessee in Savings Account maintained with *Bank of India* since the same could not be explained by the assessee.

2.2 Aggrieved the assessee contested the same without any success before *Ld. CIT(A)* vide impugned order dated 31/10/2014 which was an *ex-parte* order since the hearing notices remained *un-served* and the assessee did not attend the proceedings. The *Ld. CIT(A)* confirmed the action of *Ld. AO* on factual matrix. Aggrieved, the assessee is in further appeal before us. The *Ld. DR* submitted that the assessee was not serious in pursuing his case and therefore, the appeal may be dismissed.

3. We find that the assessee, in the grounds of appeal, has contested the order of appellate authority on the ground of principles of natural justice.



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Hence, on the facts of the case, we see no harm in providing another opportunity to the assessee to contest his claim before Ld. CIT(A). Therefore, without delving much deeper into the matter, the appeal is restored back to the file of Ld. CIT(A) for re-adjudication after providing adequate opportunity of being heard to the assessee. The assessee, in turn, is directed to substantiate his claim forthwith failing which Ld. CIT(A) shall be at liberty to dispose-off the same in the basis of material available on record.

4. Resultantly, the assessee's appeal stands partly allowed for statistical purposes.

Order pronounced in the open court on 08th, December, 2017.

Sd/-
(C. N. Prasad)
न्यायिक सदस्य / **Judicial Member**

Sd/-
(Manoj Kumar Aggarwal)
लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated :08. 12.2017

Sr.PS:- Thirumalesh

आदेश की प्रतिलिपि □ ग्रेषित/Copy of the Order forwarded to :

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

आदेशानुसार/ BY ORDER,

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