

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

BEFORE SHRI D.T. GARASIA, JUDICIAL MEMBER

**ITA No.478/M/2017
Assessment Year: 2010-11**

M/s. Elder Projects Ltd. Elder House, C-9, Dalia Industrial Estate, Off. Veera Desai Road, Andheri (W), Mumbai-400 058 PAN: AAACE7387B	Vs.	ACIT, Central Circle-34, Mumbai
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Mani Jain, A.R.
Revenue by : Ms. Arju Ceradia, D.R.

Date of Hearing : 15.01.2018
Date of Pronouncement : 07.02.2018

ORDER

Per D.T. Garasia, Judicial Member:

The present appeal has been preferred by the assessee against the order dated 06.10.2016 of the Commissioner of Income Tax (Appeals) [hereinafter referred to as the CIT(A)] relevant to assessment year 2010-11.

2. During the course of hearing, the Ld. A.R. submitted that assessee did not remain present and the Ld. CIT(A) has passed the ex-parte order. The Ld. A.R. submitted that assessee now wanted to appear before the Ld. CIT(A) and requested to restore this appeal to the file of the Ld. CIT(A) for a fresh adjudication.

3. The Ld. D.R. submitted that during the course of hearing neither the assessee remained present nor any documentary evidence was submitted. Therefore, ex-parte order was passed. He further submitted that assessee was given several opportunities still he remained absent.

4. Having heard both the parties and looking to the facts and circumstances of the case, I find that assessee due to unavoidable circumstances was unable to remain present before the Ld. CIT(A). The assessee wanted to pursue the appeal on merit. Therefore, in the interest of justice and fairplay, I allow the appeal.

Assessee is directed to remain present before the Ld. CIT(A) within two months from the receipt of this order. The Ld. CIT(A) is directed to decide the appeal on merit after giving opportunity of hearing to the assessee.

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

Order pronounced in the open court on 07.02.2018.

**Sd/-
(D.T. Garasia)
JUDICIAL MEMBER**

Mumbai, Dated: 07.02.2018.

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The CIT (A) Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.