

**IN THE INCOME TAX APPELLATE TRIBUNAL “C” BENCH, MUMBAI  
BEFORE SRI MAHAVIR SINGH, JM AND SRI G. MANJUNATHA, AM**

**ITA No. 5339/Mum/2016  
(A.Y. 2007-08)**

Kantilal M. Patel 1301, Shantivan, Devidas Lane, Borivali (W), Mumbai	Vs.	The Income Tax Officer 32(2)2, Mumbai Room No. 201, C-11, Prtayksa Kar Bhavan, BKC, Bandra (E), Mumbai-51
<b>Appellant</b>	..	<b>Respondent</b>
<b>PAN No. AAAPP5179R</b>		

**Assessee by** : Ashwin S. Chhag, AR

**Revenue by** : M. Hemalatha, DR

**Date of hearing:** 12-03-2018 **Date of pronouncement :** 16-03-2018

**ORDER**

**PER MAHAVIR SINGH, JM:**

This appeal by the assessee is arising out of the order of CIT(A)-44, Mumbai, in appeal No. CIT(A)-44/ITO 32(2)(2)/ITA-68/2013-14 dated 20-06-2016. The Assessment was framed by the Income Tax Officer, Ward-25(1)(1), Mumbai ( in short 'ITO') for the A.Y. 2007-08 vide order dated 07-03-2013 under section 143(3) of the Income Tax Act, 1961(hereinafter 'the Act').

2. When this matter was called up, it is noticed that the CIT(A) has decided the issue ex-parte as there was no compliance from the assessee. We can understand the pain of the CIT(A) in deciding the issue but he should have decided the issue on merits after considering all the material on record.



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3. We find that the CIT(A) practically has considered the AO's order and has not given any independent finding of his own. In such circumstances, we are of the view that even if matter is decided ex parte it should be by a speaking order. Accordingly, we set aside the order of CIT(A) and remand the matter back to his file for adjudication of this appeal afresh. The learned Counsel for the assessee is directed to appear before the CIT(A) as and when called for and in case he does not appear, the CIT(A) is at liberty to pass ex-party order. Matter remanded back to CIT(A) for fresh consideration.

**4. In the Result, the appeal of the assessee is allowed for statistical purposes.**

Order pronounced in the open court on 16-03-2018.

Sd/-

(G. MANJUNATHA)  
ACCOUNTANT MEMBER

Sd/-

(MAHAVIR SINGH)  
JUDICIAL MEMBER

Mumbai, Dated: 16-03-2018

*Sudip Sarkar /Sr.PS*

**Copy of the Order forwarded to:**

1. The Appellant
2. The Respondent.
3. The CIT (A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.  
//True Copy//

BY ORDER,

Assistant Registrar  
**ITAT, MUMBAI**