

**IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "A" BENCH, AHMEDABAD**

[Coram: Pramod Kumar AM and Rajpal Yadav JM]

ITA No. 3089/Ahd/2016
Assessment Year: 2012-13

Virendra P. Mamtara

203, Panchtirth Apartment,
Besides Mangal Jyoti Apartment,
Jodhpur Char Rasta, Satellite,
Ahmedabad – 380 015
[PAN : ACFPM 3531 P]

.....Appellant

Vs.

Income Tax Officer

Ward 5(3)(5), Ahmedabad

.....Respondent

Appearances by:

SN Divetia for the Appellant

Aparna Agrawal for the Respondent

Date of concluding the hearing : 15.03.2018

Date of pronouncing the order : 05.04.2018

O R D E R

Per Bench :

1. By way of this appeal, the assessee-appellant has challenged correctness of the order dated 1st August, 2016 passed by the by the CIT(A), Ahmedabad-5, in the matter of assessment under section 144 of the Income-tax Act, 1961, for the assessment year 2012-13.

2. When this appeal was taken up for hearing, it was noticed that the impugned order dated 01.08.2016 passed by the learned CIT(A) is an *ex-parte* order and that the appellant could not attend the proceedings before the CIT(A). The impugned order is thus passed without the benefit of assistance by the assessee appellant and the assessee appellant is now in appeal before us.

3. In response to a question from the Bench, learned Departmental Representative fairly agreed that he has no objection to the matter being remitted to the file of learned CIT(A) for adjudication *de novo*, after giving yet another reasonable opportunity of hearing to the assessee. We think this is a fair approach and since the learned CIT(A) did not have the benefit of assistance from the assessee appellant, the matter should be remitted to the file of learned CIT(A) for adjudication *de novo*, after giving yet another opportunity of hearing. In any case, there is no reason for an Appellate Forum being bypassed and the matter being taken up directly before us for adjudication on merits.

4. In view of this discussion and bearing in mind entirety of the case, we deem it fit and proper to remit the matter to the file of learned CIT(A) for fresh adjudication and the assessee appellant be given a reasonable opportunity of hearing. We order so.

5. In the result, appeal is allowed for statistical purposes in the terms indicated above. Pronounced in the open court today on the 5th April, 2018

Sd/-

Rajpal Yadav
(Judicial Member)

Ahmedabad, the 5th day of April, 2018

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Copies to: (1) The appellant
(2) The respondent
(3) Commissioner
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

Sd/-

Pramod Kumar
(Accountant Member)

By order

TRUE COPY

Assistant Registrar
Income Tax Appellate Tribunal
Ahmedabad benches, Ahmedabad