

IN THE INCOME TAX APPELLATE TRIBUNAL
"E" Bench, Mumbai
Before Shri B.R. Baskaran (AM)& Shri Pawan Singh (JM)

I.T.A. No. 383/Mum/2017 (Assessment Year 2011-12)

Vishal Kiran Doshi 1/A, Shantrunjay Lallubhai Park Road Andheri West Mumbai-400 058. (Appellant)	Vs.	ITO 20(3)(4) Mumbai (Respondent)
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Assessee by	Shri Lalit Munoyat
Department by	Shri V. Justin
Date of Hearing	5.6.2018
Date of Pronouncement	5.6.2018

O R D E R

Per B.R. Baskaran (AM) :-

The appeal filed by the assessee is directed against the order dated 20.10.2016 passed by the learned CIT(A)-37, Mumbai and it relates to A.Y. 2011-12. The assessee is aggrieved by the order passed by the learned CIT(A) in confirming various additions made by the Assessing Officer.

2. The Learned Counsel appearing for the assessee submitted that the learned CIT(A) has passed an ex-parte order without hearing the assessee. Learned AR further submitted that the assessee sought adjournment before the learned CIT(A) from time to time and it was granted by the learned CIT(A). Subsequently, the assessee appeared before the learned CIT(A) on 5.10.2016 and the matter was adjourned to 17.11.2016. However, the learned CIT(A) passed an order prior to that date without noticing the fact that the case was adjourned to 17.11.2016. In support of the same, the assessee has filed an affidavit given by Shri Naresh Shah, authorized representative of the assessee. Accordingly, he submitted that the assessee should be granted an opportunity to present his case before the learned CIT(A).

3. On the contrary, learned DR supported the order passed by the learned CIT(A).
4. We have heard the parties and perused the record. We noticed that the learned CIT(A) has passed an ex-parte order, without hearing the assessee. It is the case of the assessee that hearing was adjourned to 17.11.2016, but the learned CIT(A) has passed the order prior to that date. Be that as it may, as per the principle of natural justice, the assessee should have been given adequate opportunity before disposing of the matter. Hence, in the interest of natural justice, we are of the view that the assessee may be provided with one more opportunity for presenting his case before the learned CIT(A). Accordingly, we set aside the order passed by the learned CIT(A) and restore all the issues to his file for examining them afresh, after affording adequate opportunity of being heard to the assessee. We also direct the assessee to fully cooperate with the learned CIT(A) for expeditious disposal of the appeal without seeking adjournment without reasonable cause.
5. In the result, appeal filed by the assessee is treated as allowed for statistical purposes.

Order has been pronounced in the Court on 5.6.2018.

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

Sd/-
(B.R.BASKARAN)
ACCOUNTANT MEMBER

Mumbai; Dated : 5/6/2018

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai

6. Guard File.

//True Copy//

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BY ORDER,

Senior Private Secretary
ITAT, Mumbai