

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

[Coram: Pramod Kumar, AM and Ms. Madhumita Roy, JM]

ITA No. 859/Ahd/2018
Assessment Year: 2013-14

Rohit Babulal Patel

*Prop. M/s. Star Enterprise & Ind.
17, Achlayatan Society,
Nr. Memnagar Fire Station,
Navrangpura, Ahmedabad
[PAN : AGZPP 7356 D]*

.....Appellant

Vs.

Income Tax Officer

Ward 5(2)(4), Ahmedabad

.....Respondent

Appearances by:

SN Divatia for the Appellant

Saurabh Singh for the Respondent

Date of concluding the hearing : 22.06.2018
Date of pronouncing the order : 25.06.2018

O R D E R

Per Pramod Kumar, AM:

1. By way of this appeal, the assessee-appellant has challenged correctness of the order dated 23rd September, 2016 passed by the by the CIT(A), , Ahmedabad-5, in the matter of assessment under section 143(3) of the Income-tax Act, 1961, for the assessment year 2013-14.

2. When this appeal was taken up for hearing, it was noticed that the impugned order dated 23.09.2016 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. At the time of hearing, learned Counsel for the assessee submits that the entire business premises of the assessee were taken under the control and lock & key of Bank of Baroda as the assessee has failed to repay the bank loans; therefore, the notices issued by the CIT(A) at the address of the office could not be served on the assessee, and, thus, assessee could not be complied with the notices issued by the CIT(A). He further submits that the impugned order was also not served upon the assessee by the CIT(A).

4. 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.

5. 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.

6. In the result, appeal is allowed for statistical purposes in the terms indicated above. Pronounced in the open court today on the 25th June, 2018

Sd/-

Sd/-

Ms. Madhumita Roy
(Judicial Member)

Pramod Kumar
(Accountant Member)

Ahmedabad, the 25th day of June, 2018

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

By order

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Assistant Registrar
Income Tax Appellate Tribunal
Ahmedabad benches, Ahmedabad