

आयकर अपीलीय अधिकरण, मुंबई न्यायपीठ, 'जे', मुंबई।

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCHES, 'J' MUMBAI**

**श्री जोगिन्दर सिंह, न्यायिक सदस्य एवं
श्री मनोज कुमार अग्रवाल, लेखा सदस्य, के समक्ष**

**Before Shri Joginder Singh, Judicial Member, and
Shri Manoj Kumar Aggarwal, Accountant Member**

**ITA No.2344/Mum/2017
Assessment Year: 2011-12**

M/s J. Gala Builder, 267/71, Narshi Natha Street, Veermani Market, Masjid Bunder, Mumbai-400009	बनाम/ Vs.	ACIT-13(3), R.No. 430, 4 th Floor, Aayakar Bhavan, M. K. Road, Mumbai-400020
(निर्धारिती / Assessee)		(राजस्व / Revenue)
PAN. No. AAAFJ0700G		

निर्धारिती की ओर से / Assessee by	Shri Ruchi M Rathod
राजस्व की ओर से / Revenue by	Shri A. Mohan- DR

सुनवाई की तारीख / Date of Hearing:	20/08/2018
आदेश की तारीख / Date of Order:	23/08/2018

आदेश / O R D E R

Per Joginder Singh(Judicial Member)

The assessee is aggrieved by the impugned order dated 05/01/2017 of the Ld. First Appellate Authority, Mumbai, passing an ex-parte order and confirming the loan amount received from fourteen parties, amounting to Rs.49,75,000/- as income and further confirming the disallowance of interest expenditure amounting to Rs.3,26,467/-.

2. During hearing, the ld. counsel for the assessee, Ms. Ruchi M. Rathor, advanced arguments, which is identical to the ground raised by contending that proper opportunity of being heard was not provided to the assessee and the assessee in a position to substantiate its claim with documentary evidences. It was pleaded that the request of adjournment was rejected by the Ld. Commissioner of Income Tax (Appeal), which is against the principle of natural justice. On the other hand, Shri A. Mohan, Ld. DR, defended the impugned order by contending that in spite of providing opportunities, the assessee simply was asking adjournments and it was the duty of the assessee to make effective representation on the appointed date.

2.1. We have considered the rival submissions and perused the material available on record. It is noted that before the Ld. Commissioner of Income Tax (Appeal), none was present for the assessee and in spite of opportunities, the assessee requested the First Appellate Authority to grant adjournments and thus an ex-parte order was passed. Without going in to much deliberation, we deem it appropriate to direct the assessee to produce necessary evidence, if any, before the Ld. Commissioner of Income Tax (Appeal) to substantiate its claim. The Ld. Commissioner of Income Tax (Appeal) is directed to adjudicate the appeal of the assessee afresh, in accordance with law. The assessee be given reasonable opportunity of being heard. The assessee is further directed to be vigilant in future and to cooperate with the First Appellate Authority for early disposal of the appeal and not to seek unnecessary adjournments. Thus, the appeal of the assessee is allowed for statistical purposes only.

Finally, the appeal of the assessee is allowed for statistical purposes.

This Order was pronounced in the open court in the presence of Ld. representatives from both sides at the conclusion of hearing on 20/08/2018.

Sd/-

(Manoj Kumar Aggarwal)

लेखा सदस्य / ACCOUNTANT MEMBER

Sd/-

(Joginder Singh)

न्यायिक सदस्य / JUDICIAL MEMBER

मुंबई Mumbai; दिनांक Dated :23/08/2018

*Shekhar, P.S.*नि.स.

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant (Respective assessee)
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT, Mumbai.
4. आयकर आयुक्त / CIT(A)- , Mumbai,
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)

आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai