

**आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "बी", चण्डीगढ़  
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH  
BENCH 'B' CHANDIGARH**

**श्रीमती दिवा सिंह, न्यायिक सदस्य एवं डा. बी.आर.आर. कुमार, लेखा सदस्य  
BEFORE: SMT. DIVA SINGH, JM & Dr. B.R.R.KUMAR, AM**

आयकर अपील सं./ITA No. 285/CHD/2018  
निर्धारण वर्ष / Assessment Year : 2013-14

M/s Megri Soft Ltd., SCO 80, Sector 47D, Chandigarh.	बनाम VS	The ACIT, Circle 4(1), Chandigarh.
स्थायी लेखा सं./PAN No: AABCC2466Q		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

राजस्व की ओर से/ Revenue by : Shri Parikshit Agarwal, CA  
निर्धारित की ओर से/Assessee by : Shri Manjit Singh, Sr.DR

सुनवाई की तारीख/Date of Hearing : 16.10.2018  
उद्घोषणा की तारीख/Date of Pronouncement : 16.11.2018

**आदेश/ORDER**

**PER DIVA SINGH**

The present appeal has been filed by the assessee assailing the correctness of the order dated 19/12/2017 of CIT(A)-2 Chandigarh pertaining to 2013-14 assessment year on various grounds including ground No. 1 which reads as under :

*“That the impugned order is against facts and law.”*

2. The Ld. AR inviting attention to the impugned order submitted that the appeal of the assessee challenging the levy of penalty under section 271(1)(b) was confirmed by an ex-parte order holding that on the specific date of hearing, no one was present on behalf of the assessee. Inviting attention to application dated 24/05/2018 filed in the present proceedings it was his prayer that the said application is annexed with an affidavit of the assessee addressing the correct and true facts qua the issue. Reading from paragraph 3 of the said application it was his prayer; *“That the correct facts about the above appeal is that on the appointed date of hearing on 04.12.2017, the appeal of the assessee against Quantum Assessment u/s 144 as well as the above referred appeal against penalty u/s 271(1)(b) listed for hearing before Worthy*

*CIT(A). The appellant sought adjournment in both appeals through a single consolidated adjournment application and the matter was adjourned to a subsequent date. In fact, the appeal against Quantum Assessment is still pending adjudication before Worthy CIT(A). However, it appears that the said adjournment application was filed in the file of appeal against Quantum Assessment and copy thereof was not filed in the file of appeal against above penalty. Thereafter, the Worthy CIT(A) believed that the appellant had not appeared and therefore it is not interested in prosecuting the appeal. This resulted into passing of ex-parte appellate order. (emphasis provided)*

2.1. On the basis of the same it was his limited prayer that the impugned order may be set aside back to the said authority to pass an order after hearing the assessee.

3. Considering the application supported by way of an affidavit the Ld. Sr.DR did not object to the prayer for remand of the appeal.

4. Accordingly in the light of the submissions of the parties before the Bench, the issues in the peculiar facts and circumstances of the present case are sent back to the file of the CIT(A) with a direction to pass a speaking order in accordance with law after giving the assessee a reasonable opportunity of being heard. The assessee in its own interests is advised to utilize this opportunity by making full and proper compliances before the said authority. Said order pronounced in the open court at the time of hearing itself

5. In the result the appeal of the assessee is allowed for statistical purposes.

Order Pronounced in the Open Court on 16.11.2018.

Sd/-

Sd/-

( डा. बी.आर.आर. कुमार )  
(Dr. B.R.R. KUMAR)

लेखा सदस्य/ Accountant Member

“पूनम”

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

1. अपीलार्थी/ The Appellant – 2.प्रत्यर्थी/ The Respondent – 3.आयकर आयुक्त/ CIT 4.आयकर आयुक्त (अपील)/ The CIT(A) 5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File

(दिवा सिंह )

(DIVA SINGH)

न्यायिक सदस्य/Judicial Member

आदेशानुसार/ By order,  
सहायक पंजीकार/ Assistant Registrar  
ITAT,Chandigarh.