

**IN THE INCOME TAX APPELLATE TRIBUNAL "B"  
BENCH, MUMBAI**

**BEFORE HON'BLE SHRI G. S. PANNU, AM &  
HONBLE SHRI SANDEEP GOSAIN, JM**

आयकरअपीलसं./ I.T.A. No. 2543/Mum/2015  
(निर्धारणवर्ष / Assessment Year: 2006-07)

Innovations Impex India Pvt. Ltd. Unit No. 008, Coto Mall, Gr. Floor, Link Road, Andheri west, Mumbai-400 053	<b>बनाम/ Vs.</b>	ITO Cir 8(2)(2) Aayakar Bhavan Mumbai-400 020
स्थायीलेखासं ./जीआइआरसं ./PAN/GIR No. AABCI1503J		
(अपीलार्थी/Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Sh. Dinesh H. Agarwal, AR
प्रत्यर्थीकीओरसे/Respondentby	:	Sh. T. A. Khan, DR
सुनवाईकीतारीख/ Date of Hearing	:	20/07/2018
घोषणाकीतारीख / Date of Pronouncement	:	03/10/2018

आदेश / ORDER

**Per Sandeep Gosain, Judicial Member:**

This appeal filed by the assessee is against the order of Ld.

CIT(A)-17, Mumbai dated 30.01.15 for AY 2006-07.

2. The brief facts of the case are that the return of income for the year under consideration was filed on 30.11.06 declaring total loss at Rs. 3,53,669/-. Subsequently the case was selected for scrutiny and after serving statutory notices and providing opportunity of hearing, assessment order u/s 143(3) of the I.T. Act was passed by AO thereby making addition under different heads.

Aggrieved by the order of AO, assessee preferred appeal before Ld. CIT(A) and Ld. CIT(A) after considering the case of both the parties, **dismissed** the appeal of the assessee.

Now before us, the assessee has preferred the present appeal on the grounds mentioned above.

3. At the outset, Ld. AR submitted before us that assessee could not defend its case properly before the AO as well as Ld. CIT(A) on account of untimely death, due to blood cancer, of the company's previous legal counsel CA Mr. Khanna of M/s RKJ Khanna & Co, Chartered Accountants, Mumbai and the company had closed its business activities and accordingly there was none to represent the case effectively. It was further

submitted that the above fact was also confirmed in the letter dated 07.02.14 issued by Ld. CIT(A) addressed to the DCIT(OSD)-8(2), Mumbai. It was further submitted that assessee could not produced the supporting documents during the assessment proceedings also as company's accountant had left the job and the company had closed its business activities due to continued losses. In support of its contentions, the assessee had also enclosed an original Affidavit duly executed in the requisite manners and a copy of said letter dated 07/02/2014 issued by the CIT addressed to the Deputy CIT (OSD)- 8(2), Mumbai showing these facts.

Ld. AR further submitted that the entire additions have basically been made either for unexplained cash credit or for the expenses those could not be reconciled with the counterparts or for producing inadequate documents before the authorities below. It was further submitted that the assessee company could not substantiate its case on account of the reasons affirmed in the said affidavit being submitted hereto. Currently, the assessee company is in position to explain its case properly before the

authorities below and have a fair chance of succeeding its matter on merits.

4. On the other hand, Ld. DR relied upon the order passed by revenue authorities.

5. We have heard the counsels for both the parties and we have also perused the material placed on record as well as orders passed by revenue authorities. We find that assessee could not make his representation properly because of reasons mentioned by the assessee in the affidavit.

Therefore, considering the facts and circumstances of the present case and keeping in view the substantial cause of justice, we set aside the order of Ld. CIT(A) and remit the matter back to the file of AO with a direction to decide the matter afresh.

Before parting, we may make it clear that our decision to restore the matter back to the file of AO shall in no way be construed as having any reflection or expression on the merits of the dispute, which shall be adjudicated by the AO independently in accordance with law.

6. In the net result, appeal filed by the assessee is **partly allowed** with no order as to cost.

*Order pronounced in the open court on 3rd Oct., 2018.*

*Sd/-*

*Sd/-*

(G. S. Pannu)

(Sandeep Gosain)

लेखासदस्य / Accountant Member

न्यायिकसदस्य / Judicial Member

मुंबई Mumbai; दिनांक Dated :

03 .10.2018

*Sr.PS. Dhananjay*

**आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT- concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

**आदेशानुसार/ BY ORDER,**

**उप/सहायकपंजीकार**

(Dy./Asstt.Registrar)

**आयकरअपीलीयअधिकरण, मुंबई/ ITAT, Mumbai**