

**IN THE INCOME TAX APPELLATE TRIBUNAL PANAJI BENCH, PANAJI**

**BEFORE SHRI SHAMIM YAHYA, AM AND SHRI RAM LAL NEGI, JM**

ITA No. 347/Pan./2017  
(Assessment Year: 2008-09)

Shri Sadashiv D. Devarmani Prop. Protecto Marketing Services, 3104, Govind Building, Khadebazaar, Belgaum-590 001	Vs.	Jt. CIT, Range-2, Belagavi, Dr. B. R. Ambedkar Road, Belagavi-590 001
PAN/GIR No. AHXPD 3696 H		
<b>(Appellant)</b>	:	<b>(Respondent)</b>
<b>Appellant by</b>	:	Shri S. V. Halbhavi
<b>Respondent by</b>	:	Shri Y. V. Raviraj
<b>Date of Hearing</b>	:	14.11.2018
<b>Date of Pronouncement</b>	:	14.01.2019

**ORDER**

Per Shamim Yahya, A. M.:

This appeal by the assessee is directed against the order of the learned Commissioner of Income Tax (Appeals)– Gulbarga dated 22.11.2017, pertaining to assessment year 2008-09, wherein learned CIT-A has dismissed the appeal for non-prosecution.

2. Upon hearing both the counsel and perused the records we find that it is incumbent upon the learned CIT-A to pass an order on the merits of the case and not dismissed the appeal for non-prosecution. For this proposition, we place reliance upon following case laws:

1. CIT vs Premkumar Arjundas Luthra (HUF) (2017) 154 DTR (Bom)302
2. CIT vs S Chenniappa Mudaliar(1969)74 ITR 1(SC)

3. Accordingly in the interest of justice, we remit the issue raised in the appeal to the file of the learned CIT-A. The Learned CIT-A is directed to consider the issue afresh and

pass an order on the merits of the case after giving the assessee proper opportunity of being heard.

4. Learned counsel of the assessee has also given undertaking that he shall appear before the learned CIT-A *suo motto* within two months of this order to canvas the appeal.

5. In the result, this appeal by the assessee stands allowed for statistical purposes.

*Order pronounced by listing the result on the Notice Board of the Bench under Rule 34(4) of the Appellate Tribunal Rules, 1963.*

**Sd/**

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**RAM LAL NEGI  
JUDICIAL MEMBER**

**Sd/-**

**SHAMIM YAHYA  
ACCOUNTANT MEMBER**

DATED: 14.01.2019

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The CIT(A);*
- (4) *The CIT, Panji City concerned;*
- (5) *The DR, ITAT, Panji;*
- (6) *Guard file.*

Roshani, Sr. PS

By Order

(Sr. P.S./P.S.)  
ITAT