

IN THE INCOME TAX APPELLATE TRIBUNAL

"H" BENCH, MUMBAI

BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER AND

SHRI AMARJIT SINGH, JUDICIAL MEMBER

ITA no.2718/Mum/2017
(Assessment Year: 2009-10)

Shri Krishnamurthy Rajagopalan
402, Siddhivinayak
Bangur Nagar
Goregaon (W)
Mumbai – 400 090
PAN No:ABBPR1868D

..... Appellant

v/s

ITO – 24(3)(1)
Mumbai

..... Respondent

Assessee by : Shri. A.L. Sharma
Revenue by : Shri. Manoj Kumar Singh

Date of Hearing –02/04/2019

Date of Order - 03/04/2019

ORDER

PER: SHAMIM YAHYA, JM

This is an appeal by the assessee directed against order of Ld. CIT(A) -42, Mumbai dated 10/11/2016 pertaining to assessment year 2009-10, wherein learned CIT(A) has dismissed the appeal primarily 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 dismiss the appeal for non-prosecution.

3. 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)

4. Accordingly in the interest of justice, we remit the issue raised in the appeal the file of the learned CIT(A). 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.

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

Order pronounced in the Open Court on 03/04 /2019

Sd/-

**AMARJIT SINGH
JUDICIAL MEMBER**

Sd/-

**SHAMIM YAHYA
ACCOUNTANT MEMBER**

MUMBAI, DATED: 03/04/2019

*ITA No.2718/Mum/2017
Shri Krishnamurthy Rajagopalan*

Copy of the order forwarded to:

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

*Karuna
Sr. Private Secretary*

By Order

(Dy./Asstt.Registrar)

ITAT, Mumbai