

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

**BEFORE SHRI MAHAVIR SINGH, JUDICIAL MEMBER AND
SHRI RAJESH KUMAR, ACCOUNTANT MEMBER**

**ITA No.6959/M/2017
Assessment Year: 2009-10**

M/s. Sanmit Infra Ltd., (Earlier known as ASIA HR Technologies Ltd.), 601, Makhija Royale, 6 th Floor, S.V. Road, Khar (West), Mumbai – 400 052 PAN: AAECA9114C	Vs.	ACIT – Cir. 13(2)(1), Mumbai - 400020
(Appellant)		(Respondent)

Present for:

Assessee by : Mrs. Sanjukta Chowdhury, A.R.
Revenue by : Shri Chaudhary Arun Kumar Singh, D.R.

Date of Hearing : 10.04.2019

Date of Pronouncement : 30.04.2019

ORDER

Per Rajesh Kumar, Accountant Member:

The present appeal has been preferred by the assessee against the order dated 25.10.2017 of the Commissioner of Income Tax (Appeals) [hereinafter referred to as the CIT(A)] relevant to assessment year 2009-10.

2. The issue raised in 1st ground of appeal is against the ex-parte order passed by the Ld. CIT(A) when assessee could not appear before the Ld. CIT(A) due to non receipt of notice fixing the date of hearing and thus the assessee prays that the order may be set aside to the file of the Ld. CIT(A) to decide the same on merits.

3. At the outset, the Ld. Counsel of the assessee submitted before the Bench that the order by the Ld. CIT(A) was ex-parte as the assessee could not appear on the date of hearing. The Ld. A.R. submitted that the non appearance on the appointed date of hearing before the Ld. CIT(A) was beyond the control of the assessee as the assessee did not get any notice fixing the date of hearing and therefore the principles of natural justice were violated grossly with ex-parte decision by ld. CIT(A). The Ld. A.R. submitted that the assessee may kindly be given one more opportunity to appear before the Ld. CIT(A) to present its case so that appeal could be disposed of on merits after hearing the assessee.

4. The Ld. D.R., on the other hand, did not object to the contentions raised by the assessee.

5. After hearing both the parties and perusing the material on record, we observe that the first appellate authority has passed the order ex-parte because the assessee could not appear on the date of hearing due to non receipt of notice fixing the date of hearing. In our view, the ends of justice would be met if the assessee is given one more opportunity to present its case before the Ld. CIT(A). Accordingly, we restore the appeal back to the file of the Ld. CIT(A) to decide the same as per facts and law after affording a reasonable opportunity to the assessee. The assessee is also directed to co-operate in the early disposal of the appeal.

6. In the result, the appeal of the assessee is partly allowed for statistical purpose.

Order pronounced in the open court on .04.2019.

**Sd/-
(Mahavir Singh)
JUDICIAL MEMBER**

**Sd/-
(Rajesh Kumar)
ACCOUNTANT MEMBER**

Mumbai, Dated: 30.04.2019.

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The CIT (A) Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.