

IN THE INCOME TAX APPELLATE TRIBUNAL
JODHPUR BENCH, JODHPUR

**BEFORE SHRI N.K.SAINI, VICE PRESIDENT AND
SHRI N.K. CHOUDHRY, JUDICIAL MEMBER**

ITA No.392/JODH/2017
Assessment Year: 2009-10

M/s. Super Shiv Shakti
Minchem Pvt. Ltd.
C-111, Shastri Nagar,
Bhilwara.

Vs.

Income Tax Officer
Ward-3, Bhilwara

[PAN :AALCS 8492A]
(Appellant)

(Respondent)

Appellant by : None

Respondent by : Shri P.K. Singi, Ld. DR

Date of Hearing: 30/04/2019

Date of Pronouncement: 30/04/2019

ORDER

PER N.K.CHOUDHRY

The instant appeal has been preferred by the Assessee/Appellant against the order dated 19.07.2017 impugned herein passed by the Ld. CIT(A), Ajmer u/s 250(6) of the I.T. Act (hereinafter called as the 'Act') whereby the Ld. CIT(A) has affirmed the assessment order dated 04.11.2016 passed u/s 144 r.w.s.147 of the Act by the ITO, Ward-3, Bhilwara.

2. At the outset, it is observed that the order under challenge has been passed as an ex-parte and from Para No.3 of the order, it reflects that though the Ld. CIT(A) has fixed the appeal for hearing on various dates, however, no one has attended on any of the date of hearing and no written submission has been filed, therefore, the appeal has

been decided by the Ld. CIT(A) after going through the assessment order and grounds of appeal only.

We realized that from the order it does not reflect that notice of hearing has ever been served upon the assessee for any date as mentioned in Para No.3 of the order, neither the Ld. CIT(A) has mentioned qua mode of service to the assessee, hence for substantial justice, in our considered view best proper course would be to set aside the order under challenge and to restore back the matter to the file of Ld. CIT(A) for decision afresh. Consequently, the matter is restored back to the file of Ld. CIT(A) for decision afresh after affording reasonable and proper opportunities of being heard to the assessee.

It is also ordered that the assessee shall co-operate with the appellant proceedings and shall appear as and when required by the Ld. CIT(A) and in case of failure on its part the Ld. CIT(A) shall be at liberty to draw the adverse inference against the assessee.

3. In the result, the appeal of the Assessee stands allowed for statistical purposes.

Order pronounced in the Open Court on 30.04.2019.

Sd/-
(N.K.SAINI)
VICE PRESIDENT

Sd/-
(N.K.CHOUDHRY)
JUDICIAL MEMBER

Dated:30/04/2019

PK/PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR