

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

**BEFORE SHRI M.BALAGANESH, AM
&
SHRI AMARJIT SINGH, JM**

**ITA No.6049/Mum/2017
(Assessment Year :2014-15)**

M/s. Techno Process Equipments (India) Pvt. Ltd., 215/219, 2 nd Floor Ashok Industrial Premises L.B.S. Marg, Bhandup (W) Mumbai – 400 078	Vs.	The Commissioner of Income Tax (Appeals) – 24 'A' Wing, 3 rd Floor, Mittal Court, Nariman Point Mumbai – 400 021
PAN/GIR No. AABCT2398C		
(Appellant)	..	(Respondent)

Assessee by	Shri M.N. Ladiwala
Revenue by	Ms. Neelima Nadkarni
Date of Hearing	25/04/2019
Date of Pronouncement	30/04/2019

आदेश / ORDER

PER M. BALAGANESH (A.M):

This appeal in ITA No.6049/Mum/2017 for A.Y.2014-15 arises out of the order by the Id. Commissioner of Income Tax (Appeals)-24, Mumbai in appeal No.CIT(A)-24/DCIT-15(3)(1)/IT-296/2016-17 dated 30/06/2017 (Id. CIT(A) in short) against the order of assessment passed u/s.143(3)of the Income Tax Act, 1961 (hereinafter referred to as Act) dated 14/12/2016 by the Id. Dy. Commissioner of Income Tax-15(3)(1), Mumbai (hereinafter referred to as Id. AO).

2. We find that assessee has raised a preliminary ground that the Id. CIT(A) had passed an ex parte order without giving adequate opportunity of being heard to the assessee. We find that this issue goes to the root of the matter and had to be addressed at the first stage.

3. From the perusal of the order of the Id. CIT(A), we find that the date of hearing fixed before the Id. CIT(A) was on 29/06/2017 and on that day the authorised representative of the assessee was out of station, hence he could not attend the hearing before the Id. CIT(A) and that the final order was passed by the Id. CIT(A) on 30/06/2017 dismissing the appeal of the assessee.

3.1. We also find that the assessee had raised the ground regarding the disallowance u/s.40(a)(ia) of the Act before the Id. CIT(A) in addition to regular ground raised for addition made towards estimation of remuneration. But the Id. CIT(A) had not adjudicated the ground in respect of disallowance u/s.40(a)(ia) of the Act, hence, even on this aspect, this appeal had to go back to the file of the Id. CIT(A). Hence, we deem it fit and appropriate in the interest of justice and fair play to set aside this appeal to the file of the Id. CIT(A) for *denovo* adjudication on merits. Accordingly, grounds raised by the assessee are allowed for statistical purposes.

4. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on this 30/04/2019

Sd/-
(AMARJIT SINGH)
JUDICIAL MEMBER

Sd/-
(M.BALAGANESH)
ACCOUNTANT MEMBER

Mumbai; Dated 30/04/2019
Karuna Sr.PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

सत्यापित प्रति //True Copy//

BY ORDER,

(Asstt. Registrar)

ITAT, Mumbai