

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCHES "G", MUMBAI

Before Shri Mahavir Singh, Judicial Member
& Shri Rajesh Kumar, Accountant Member

ITA No.6697/Mum/2017
Assessment Year: 2012-13

Shamim Haider Khan Unit No.9 & 10 Crescent Indl. Premises Soc., R.C. Loyalka Lane, Kherani Road, Saki Naka Mumbai-400 072 PAN: AACPK8111C (Assessee)	Vs.	ACIT, Circle-26(3) C-11, 5 TH Floor Patyaksha Kar Bhavan Bandra Kurla Complex, Bandra (East) Mumbai-400 051 (Revenue)
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Revenue By : Shri Choudhary Arun Kumar Singh
Assessee By : Shri Vimal Punmiya

Date of Hearing :09/04/2019	Date of Pronouncement : 12 .04.2019
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ORDER

Per Rajesh Kumar, Accountant Member

1. The present appeal by the assessee is arising out of the order dated 30/09/2016 of the Ld. Commissioner of Income-Tax (Appeals)-38 hereinafter called [CIT(A)], Mumbai, in Appeal No.CIT(A)-38/ACIT26(3)/IT-04/2015-16, which is in tern arising out the assessment order dated 02/03/2015 framed u/s 143(3) of the Income tax Act, 1961 hereinafter referred to as the 'Act' passed by the Ld. Assistant Commissioner of Income Tax, Circle-26(3), Mumbai, hereinafter called ACIT

2. At the outset the Ld. AR pointed out that the case of the assessee was decided ex-parte by the Ld. CIT(A) for not attending

the hearing on various dates. The Ld. Counsel therefore submitted that since the assessee could not appear before the CIT(A) despite various opportunities due to the fact that the assessee was totally relying on the Tax practitioners Shri K.M.Mehdi who did not attend the hearing before the CIT(A) despite various opportunities granted. The assessee only came to know when the ex-parte order was received by the assessee. The Ld. AR , therefore, prayed before the bench that in the interest of the justice and fairplay , the assessee may please be granted one opportunity to represent the case before the Ld. CIT(A) so that the matter could be decided on merits. The Ld. DR on the other hand objected to the restoration of the case to the file of the CIT(A) on the ground that assessee did not avail several opportunities allowed by the Ld. CIT(A).

3. After hearing both the parties and perused the material available on record, we note that in this case the Ld. CIT(A) passed ex-parte order without considering the merit of the case. In our opinion assessee should be granted one more opportunity to represent his case on merits. We are, therefore, inclined to restore the issue to the file of the AO to decide the matter afresh after giving a reasonable opportunity to the assessee.

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

Order pronounced in the open court on this day of 12.04. 2019

Sd/-
(Mahavir Singh)
JUDICIAL MEMBER

Sd/-
(Rajesh Kumar)
ACCOUNTANT MEMBER

Mumbai, Dated : 12.04.2019

Thirumalesh, Sr.PS

Copy of the Order forwarded to :

1. The Appellant.
2. The Respondent.
3. The CIT(A), Mumbai.
4. The CIT
5. The DR, 'G' Bench, ITAT, Mumbai

BY ORDER

(Assistant Registrar)
Income Tax Appellate Tribunal, Mumbai