

आयकर अपीलीय अधिकरण “SMC” न्यायपीठ मुंबई में।

IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH, MUMBAI

श्री महावीर सिंह, न्यायिक सदस्य एवं श्री एन. के. प्रधान लेखा सदस्य के समक्ष ।

BEFORE SRI MAHAVIR SINGH, JM AND SRI NK PRADHAN, AM

आयकर अपील सं./ ITA No. 4025/Mum/2018

(निर्धारण वर्ष / Assessment Year 2012-13)

Manish Sohanraj Bafna B-1, 103, Sukhsagar CHS. Opp. Reliance Fresh, Dr. D.B. Road, Mumbai-Central (E), Mumbai-400 008	Vs.	The Income Tax Officer- 19(2)(3), Room No. 221, Matru Mandir, Tardeo Road Mumbai-400 007
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)
स्थायी लेखा सं./PAN No. AKKPB8940J		

अपीलार्थी की ओर से / Appellant by	:	Shri Dinkle Hariya, AR
प्रत्यर्थी की ओर से / Respondent by	:	Shri Chaitanya Anjaria, DR

सुनवाई की तारीख / Date of hearing:	16-05-2019
घोषणा की तारीख / Date of pronouncement :	16-05-2019

आदेश / ORDER

महावीर सिंह, न्यायिक सदस्य/
PER MAHAVIR SINGH, JM:

This appeal filed by the assessee is arising out of the order of Commissioner of Income Tax (Appeals)-30, Mumbai [in short CIT(A)], in appeal No. CIT(A)-30/19(2)(3)/82/2015-16 dated 20.04.2018. The Assessment was framed by the Income Tax Officer, Ward-19(2)(3),



Mumbai (in short ITO/ AO) for the A.Y. 2012-13 vide dated 13.02.2015 under section 143(3) of the Income Tax Act, 1961 (hereinafter 'the Act').

2. At the outset, the learned Counsel for the assessee stated that the CIT(A) has decided the appeal by an ex-parte order but, the assessee has never received any notices for fixation of appeal, though the assessee requested for change to new address vide letter dated 16.11.2017. The notice was never served on new address. Therefore, assessee could not attend the hearing before CIT(A). For this assessee has raised the following ground No. 1 & 2: -

"1. On the facts and in the circumstances of the case and in law the Learned CIT(A)-30, Mumbai has erred in dismissing the appeal by passing an ex-parte order due to non-appearance of anyone of the dates fixed for hearing before the Learned CIT(A). The impugned order is passed in violation of principles of natural justice.

2. On the facts and in the circumstances of the case and in law the Learned CIT(A)-30, Mumbai has erred by issuing notice for hearing in ITNS-37 dt.20.03.2018 fixing hearing on 19.04.2018 on old address. Though change of appellant's residential address was brought to notice through letter drd. 16.11.2017 file don 16.11.2017."

3. We have gone through the order of CIT(A) and noted that the CIT(A) has passed ex-parte order without hearing the assessee. When this fact was confronted to the learned Sr. Departmental Representative, he stated that the matter can be restored back to the file of the CIT(A) for allowing one more opportunity to the assessee. Hence, we set aside the



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order of CIT(A) and restore the matter back to his file for fresh adjudication as per law. Needless to say that the CIT(A) will provide reasonable opportunity of being heard to the assessee.

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

Order pronounced in the open court on 16.05.2019.

Sd/-

(एन. के. प्रधान/ NK PRADHAN)

(लेखा सदस्य / ACCOUNTANT MEMBER)

Sd/-

(महावीर सिंह / MAHAVIR SINGH)

(न्यायिक सदस्य/ JUDICIAL MEMBER)

मुंबई, दिनांक/ Mumbai, Dated: 16.05.2019.

सुदीप सरकार, व.निजी सचिव / Sudip Sarkar, Sr.PS

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार (Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai