

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

**BEFORE HON'BLE SHRI SANDEEP GOSAIN, JM &
HON'BLE SHRI G. MANJUNATHA, AM**

आयकरअपीलसं./ I.T.A. No. 1920/Mum/2018,
(निर्धारणवर्ष / Assessment Year: 2014-15)

M/s DKT Trading Pvt. Ltd. G/7/9, Rani Sati Marg, S. V. Road, Malad (west), Mumbai-401104	बनाम/ Vs.	DCIT 12(2)(1), Room no. 223, Aayakar Bhavan , M. K. Road, Mumbai-400 020
स्थायीलेखासं ./जीआइआरसं ./PAN/GIR No. AAIPG5312M		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Sh Ishwar P. Rathi, AR
प्रत्यर्थीकीओरसे/ Respondent by	:	Sh. D. G. Pansari, DR

सुनवाईकीतारीख/ Date of Hearing	:	30/04/2019
घोषणाकीतारीख / Date of Pronouncement	:	30.04.2019

आदेश / ORDER

Per Sandeep Gosain, Judicial Member:

The present appeal filed by the assessee is challenging against the order of the CIT(A)-20, Mumbai dated 16.11.17 for AY 2014-15.

2. At the very outset, we noticed that assessee has challenged the order of Ld. CIT(A) on the ground that additions /disallowances made by AO were upheld by passing ex-parte order.

3. We have heard the counsels for both the parties and we have also perused the material placed on record well as the orders passed by the revenue authorities. From the records, we noticed that Ld. CIT(A) had passed an ex-parte order as nobody appeared on behalf of the assessee as well as the department before Ld. CIT(A). On perusal of the order, we also noticed that initially the appeal was fixed on 18.09.17, but on that day, adjournment was sought by the assessee, thereafter the matter was adjourned to 14.10.17 & 06.11.17 and on both the occasions, none appeared on behalf of the assessee although notices were served on the assessee. In our view, it was the bounded duty of the parties i.e assessee as well as the Department to appear before the Ld. CIT(A). Since, this was the assessee's appeal, therefore it was all the more important for the assessee to appear before Ld. CIT(A). However, the assessee had not acted with due diligence.

Nevertheless, the principles of natural justice demands that the lis between the parties should be decided on merits after providing due opportunity of hearing to both the parties.

4. Be that as it may, considering the facts and circumstances of the present case and while considering the request of the assessee that he could not appear before Ld. CIT(A) because of unavoidable circumstances, therefore we are of the considered view that the ends of justice would be met only when we set aside the ex-parte order passed by the learned CIT(A) and restore back the matter to the file of the Ld. CIT(A) for deciding the appeals on merits after providing opportunity of hearing to the assessee. We further direct that assessee would appear before Ld. CIT(A) within 30 days from the date of receipt of this order and would cooperate in the early disposal of the appeal.

5. Before parting, we may make it clear that our decision to restore the matter back to the file of Ld. CIT(A) shall in no way be construed as having any reflection or expression on the merits of the dispute, which shall be adjudicated by Ld. CIT(A)

