

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

**BEFORE SHRI C.N. PRASAD, HON'BLE JUDICIAL MEMBER AND  
SHRI M. BALAGANESH, HON'BLE ACCOUNTANT MEMBER**

**ITA NO. 6341/MUM/2017 (A.Y: 2007-08)**

Shri Rajesh R. Singh 1/1, Ghanshyam Baug Cama Lane, Hansoti Road Ghatkopar(W)-400 086  <b>PAN: AAGPS1439P</b>	v.	DCIT -22(2) Room No. 417, 4 <sup>th</sup> Floor Vashi ITO office Vashi, Navi Mumbai
<b>(Appellant)</b>		<b>(Respondent)</b>

**Assessee by : Shri Mani Jain &  
Shri Pratik Jain**

**Department by : Shri Chaitanya Anjaria**

**Date of Hearing : 26.07.2019**

**Date of Pronouncement : 08.08.2019**

**ORDER**

**PER C.N. PRASAD (JM)**

1. This appeal is filed by the assessee against the order of the Learned Commissioner of Income Tax (Appeals)-25, Mumbai [hereinafter in short "Ld.CIT(A)"] dated 21.03.2016 for the A.Y. 2007-08 in sustaining the penalty levied u/s. 271(1)(c) of the Act.

2. At the time of hearing, at the outset Ld. Counsel for the assessee submits that Ld.CIT(A) passed exparte order sustaining the penalty without giving proper opportunity of being heard to the assessee.

3. Ld. DR has no serious objection in restoring the appeal to the file of the Ld.CIT(A) for fresh adjudication on hearing the assessee.

4. On hearing both the parties and perusing the order of the Ld.CIT(A), we find that, though the Ld.CIT(A) has recorded that on several occasions the assessee could not appear in spite of issue of notices, no specific instance was brought on record except on the date of hearing i.e., 06.09.2013, the assessee sought adjournment through his authorized representative. Taking totality of facts and circumstances into consideration, we are of the considered view that the assessee should be given one more opportunity to present his case. Thus, we restore this appeal to the file of the Ld.CIT(A) for denovo adjudication in accordance with law. Ld. Counsel for the assessee submits that assessee will cooperate in the proceedings before the Ld.CIT(A) and no adjournment will be taken without reasonable cause. We direct the assessee to cooperate with the proceedings before the Ld.CIT(A) without seeking adjournments without any cause. The Ld.CIT(A) shall dispose of the

appeal after providing adequate opportunity of being heard to the assessee.

5. In the result, appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on the 08<sup>th</sup> August, 2019

Sd/-  
**(M. BALAGANESH)**  
**ACCOUNTANT MEMBER**  
Mumbai / Dated 08/08/2019  
Giridhar, Sr.PS

Sd/-  
**(C.N. PRASAD)**  
**JUDICIAL MEMBER**

**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.

//True Copy//

BY ORDER

(Asstt. Registrar)  
**ITAT, Mum**