

आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणे में ।  
IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, PUNE

BEFORE SHRI R.S.SYAL, VP AND  
SHRI PARTHA SARATHI CHAUDHURY, JM

आयकर अपील सं. / ITA No.1015/PUN/2017

निर्धारण वर्ष / Assessment Year : 2009-10

The Income Tax Officer,  
Ward-5, Panvel,  
Raigad.

.....अपीलार्थी / Appellant

**बनाम / V/s.**

Shri Gordhan Singh Rajpuroghit,  
Prop. Of M/s. Shripal Steel & Alloys,  
A-603, Shree Shivsahnkar,  
Plot No.32 to 35, Sector-34,  
Kamothe, Dist. Raigad-410 209.  
PAN:AHZPR5946C

.....प्रत्यर्थी / Respondent

Assessee by : None

Revenue by : Shri Pankaj Garg

सुनवाई की तारीख / Date of Hearing : 05.09.2019

घोषणा की तारीख / Date of Pronouncement : 05.09.2019

**आदेश / ORDER**

**PER PARTHA SARATHI CHAUDHURY, JM :**

This appeal preferred by the Revenue emanates from the order of the  
Ld. CIT(Appeals)-1, Aurangabad dated 23.01.2017 for the assessment year  
2009-10 as per the grounds of appeal on record.

2. In this case, the assessee was not present at the time of hearing before us nor any Authorized Representative was present on his behalf. That being Revenue's appeal, the Ld. DR invited our attention to the order passed by the Ld. CIT(Appeals) and submitted that it is an *ex-parte* order. The Ld. DR further submitted that though several opportunities were given to the assessee, the fact remains that on merits, rights and liabilities of the Revenue as well as the assessee still remains to be ascertained. In view of the matter, the Ld. DR prayed that the matter may be restored back to the file of Ld. CIT(Appeals) for re-adjudication.

3. We have perused the case records and analyzed the facts and circumstances in this case. We observe that the order passed by the Ld. CIT(Appeals) is an *ex-parte* order. There were several opportunities provided to the assessee but those opportunities were not availed of by the assessee and therefore, the Ld. CIT(Appeals) decided the appeal based on material available on records. However, in his own order, he has mentioned that even merits/materials available on record, the assessee has failed to file necessary documents/details in support of its case. In effect, the adjudication on merits still remains to be completed. Though we appreciate that ample opportunity was provided to the assessee. However, keeping in mind the fact that the spirit of income tax legislation is welfare legislation, in the interest of justice, we set aside the order of the Ld. CIT(Appeals) and remit the matter back to his file for fresh adjudication on merits in compliance with the principles of natural justice.

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

Order pronounced on 05<sup>th</sup> day of September, 2019.

Sd/-  
**R.S.SYAL**  
**VICE PRESIDENT**

Sd/-  
**PARTHA SARATHI CHAUDHURY**  
**JUDICIAL MEMBER**

पुणे / Pune; दिनांक / Dated : 05<sup>th</sup> September, 2019.

SB

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(Appeals)-1, Aurangabad.
4. The Pr. CIT-2, Thane.
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण, "बी" बेंच,  
पुणे / DR, ITAT, "B" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

// True Copy //

आदेशानुसार / BY ORDER,

निजी सचिव / Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.

		Date	
1	Draft dictated on	05.09.2019	Sr.PS/PS
2	Draft placed before author	05.09.2019	Sr.PS/PS
3	Draft proposed and placed before the second Member		JM/AM
4	Draft discussed/approved by second Member		AM/JM
5	Approved draft comes to the Sr. PS/PS		Sr.PS/PS
6	Kept for pronouncement on		Sr.PS/PS
7	Date of uploading of order		Sr.PS/PS
8	File sent to Bench Clerk		Sr.PS/PS
9	Date on which the file goes to the Head Clerk		
10	Date on which file goes to the A.R		
11	Date of dispatch of order		