

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

**BEFORE SHRI R.C. SHARMA, ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.A. No. 4405 & 4406/Mum/2018  
(निर्धारण वर्ष / Assessment Years : 2010-11 & 2011-12)

Palm House Co-operative Housing Society Ltd., M/s. N.M Associate, C.A. 1/216, Tarlika, Ground Floor, Sir Bhal Chandra Road, Matunga (E), Mumbai	<b>बनाम/ Vs.</b>	ITO 18(3)(2) Mumbai.
स्थायी लेखा सं./जीआइआर सं./ PAN/GIR No. : AAAAP5030C		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से/ Appellant by :	Shri Nitin M. Furia
प्रत्यर्थी की ओर से/Respondent by :	Shri Akthar H Ansari, DR

सुनवाई की तारीख / Date of Hearing	06/11/2019
घोषणा की तारीख/Date of Pronouncement	13/11 /2019

आदेश / ORDER

**PER R.C. SHARMA(A.M.)**

These are the appeals filed by the assessee against ex-parte order of the CIT(A) for the A.Ys 2010-11 and 2011-12.

2. In both these appeals assessee is basically aggrieved by the ex-parte order passed by the CIT(A) without giving due and proper opportunity to the assessee .

3. I have heard the rival contentions and record perused and found that assessee is a society registered under cooperative housing Act, 1960 and it is deriving income from its members as contribution and income from other sources. During the course of assessment proceeding the A.O made addition on account of transfer fee, donation, interest income etc. Against, which assessee filed an appeal before CIT(A). It was argued by the Ld. AR that notice issued fixing the hearing was not served on the assessee and therefore assessee could not appeal before the CIT(A) and only on receipt of demand notice it came to know that appeal has been dismissed. I found that there was sufficient reason for not appearing before the CIT(A). In the substantial interest of justice, I set aside the ex-parte order of the CIT(A) and the matter is restore to the file of the CIT(A) over deciding afresh after giving due and proper opportunity to the assessee. Assessee is also direct to appear before CIT(A) within 60 days from the date of receipt of this order. I direct accordingly.

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4. In the result both the appeals are allowed in part for statistical purposes.

This Order pronounced in Open Court on 13/11/2019

Sd/-  
( R.C. SHARMA )  
ACCOUNTANT MEMBER

Mumbai, Dated 13/11/2019

KRK, PS

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

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

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

1.

उप/सहायक पंजीकार ( Asst. Registrar)  
आयकर अपीलीय अधिकरण, अहमदाबाद/ ITAT, Mumbai