



ITA No.5434/Mum/2018  
m/S Arriva Jewellery  
Assessment Year-2014-15

**आयकर अपीलीय अधिकरण “ऐ” न्यायपीठ मुंबई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“A” BENCH, MUMBAI**

**माननीय श्री विकास अवस्थी, न्यायिक सदस्य एवं**  
**माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।**  
**BEFORE HON’BLE SHRI VIKAS AWASTHY, JM AND**  
**HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM**

आयकर अपील सं./ I.T.A. No.5434/Mum/2018  
(निर्धारणवर्ष / Assessment Year: 2014-15)

<b>M/s Arriva Jewellery</b> 512A, Panchratna Mama Parmanand Marg Opera House, Mumbai – 400 004	<b>बनाम/</b> Vs.	<b>ACIT-24(1)</b> R.No.408, 4 <sup>th</sup> Floor Piramal Chambers Lalbaug, Mumbai – 400 012
<b>स्थायीलेखासं./जीआइआरसं./PAN/GIR No. AAIFA-7187-Q</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )
अपीलार्थी की ओर से/ <b>Appellant by</b>	:	Shri Apurva R.Shah- Ld. AR
प्रत्यर्थीकीओरसे/ <b>Respondent by</b>	:	Shri S. Michael Jerald- Ld. DR
सुनवाई की तारीख/ <b>Date of Hearing</b>	:	18/12/2019
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	18/12/2019

**आदेश / O R D E R**

**Manoj Kumar Aggarwal (Accountant Member): -**

1. Aforesaid appeal by assessee for Assessment Year [in short referred to as ‘AY’] 2014-15 contest the order of Ld. Commissioner of Income-Tax (Appeals)-36, Mumbai, [in short referred to as ‘CIT(A)’], *Appeal No. CIT(A)-*



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36/IT 402/ACIT-24(1)/2016-17 dated 30/07/2018 on following grounds of appeal: -

The Commissioner of Income Tax (Appeals) -36 erred in:

1. dismissing the appeal on ground on non-appearance and non-compliance. He erred in not appreciating that in Form 35 the Appellant had specifically opted to not receive notices by email and had also mentioned a correspondence address which was different from the registered address of the Appellant. He erred in sending notices by email and in sending them physically at an address other than what was opted for by the Appellant.

2. confirming a disallowance of 45% of administrative and other expenses.

2. The learned Authorized Representative for assessee, at the outset, drawing our attention to the ground-1 of the appeal, submitted that hearing notices were not sent by learned first appellate authority in the manner specified in Form No. 35 which resulted into ex-parte dismissal of assessee's appeal. The Ld. AR also pleaded for reasonable estimation of disallowances. The Ld. DR, on the other hand, submitted that the matter may be restored back to the file of Ld. CIT(A) to take a view in the matter.

3. Upon careful consideration, we find that the assessee has been saddled with *ad hoc* disallowance of administrative & other expenditure to the extent of 45% in an assessment framed u/s 143(3) on 16/12/2016. Upon further appeal, the assessee could not appear before learned first appellate authority, apparently for reasons stated by Ld. AR, before us. The same resulted into ex-parte dismissal of the appeal. Keeping in view the pleading made before us and keeping in view principles of natural justice, we deem it fit to restore the matter back to the file of Ld. CIT(A) for adjudication *de-novo* with a direction to the assessee to substantiate his



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claim. Needless to add that adequate opportunity of being heard shall be granted to the assessee.

4. In the result, the appeal stand allowed for statistical purposes..

*Order pronounced in the open court on 18<sup>th</sup> December, 2019.*

**Sd/-**

**(Vikas Awasthy)**

न्यायिक सदस्य / **Judicial Member**

मुंबई Mumbai; दिनांक Dated : 18/12/2019

*Sr.PS:-Jaisy Varghese*

**आदेश की प्रतिलिपि □ ग्रेषित/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- concerned
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

**Sd/-**

**(Manoj Kumar Aggarwal)**

लेखा सदस्य / **Accountant Member**

**आदेशानुसार/ BY ORDER,**

**उप/सहायक पंजीकार (Dy./Asstt.Registrar)**

**आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai.**