

आयकर अपीलीय अधिकरण "SMC" न्यायपीठ मुंबई में।

IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH, MUMBAI

श्री महावीर सिंह, न्यायिक सदस्य

BEFORE SRI MAHAVIR SINGH, JUDICIAL MEMBER

आयकर अपील सं./ ITA No. 6951/Mum/2018

(निर्धारण वर्ष / Assessment Year 2011-12)

Siddhi Vinayak Homes Ground, 220-Tara Mansion, 11 Khetwadi main Road, Mumbai	बनाम/ Vs.	The Income Tax Officer, Circle 12(1)(1), Now known as the income tax officer 17(3)(3)
(अपीलार्थी / Appellant)		(प्रत्यर्थी/ Respondent)
स्थायी लेखा सं./PAN No. AAVFS8880K		

अपीलार्थी की ओर से / Appellant by	:	Shri GP Mehta, AR
प्रत्यर्थी की ओर से / Respondent by	:	Shri Akhtar H. Ansari, DR

सुनवाई की तारीख / Date of hearing:	18.12.2019
घोषणा की तारीख / Date of pronouncement :	18.12.2019

आदेश / O R D E R

महावीर सिंह, न्यायिक सदस्य/

PER MAHAVIR SINGH, JM:

This appeal of the assessee is arising out of the order of Commissioner of Income Tax (Appeals)]-28, Mumbai [in short CIT(A)], in Appeal No. CIT(A)-28/IT-285/ITO-12(1)(1)/2013-14



order dated 27.09.2018. The Assessment was framed by the Income Tax Officer, Ward-12(1)(1), Mumbai (in short ITO / AO) for the A.Y. 2011-12 vide order dated 24.01.2014, under section 143(3) of the Income-tax Act, 1961 (hereinafter 'the Act').

2. At the outset, the learned Counsel for the assessee drew our attention to the order of CIT(A) and stated that the order of CIT(A) is totally ex-parte despite the fact that the appeal was fixed for hearing before CIT(A) on 08.01.2016, 19.06.2017 and 16.09.2018 but no response has been come from assessee's side and appellate order was passed on 27.09.2018. Even the Ld. Counsel pointed out that the order of CIT(A) is totally non-speaking and not discussed any facts. The disallowance has been confirmed by the CIT(A) on presumptions, assumptions, conjunctures and surmises and without allowing reasonable opportunity of being heard to assessee and in violation of principles of natural justice. Hence, Ld. Counsel requested that let the order of First Appellate Authority i.e., the order of CIT(A) be set aside and appeal be remanded back to his file for fresh adjudication.

3. When this was pointed out to Ld. Sr. Departmental Representative, he fairly conceded the position and could not controvert the above submissions.

4. After hearing both the sides and going through the facts, I find that the order of CIT(A) is totally non-speaking and that also ex-parte. Hence, I set aside the order of CIT(A) and



restore the matter back to his file for fresh adjudication, after allowing reasonable opportunity of being heard to assessee.

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

Order pronounced in the open court on 18.12.2019.

Sd/-

(महावीर सिंह /MAHAVIR SINGH)

(न्यायिक सदस्य/ JUDICIAL MEMBER)

मुंबई, दिनांक/ Mumbai, Dated: 18.12.2019

सुदीप सरकार, व.निजी सचिव / *Sudip Sarkar, Sr.PS*

आदेश की प्रतिलिपि अग्रेषित/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
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई /
DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार (Asstt. Registrar)

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