

आयकर अपीलीय अधिकरण "B" न्यायपीठ मुंबई में।

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

श्री महावीर सिंह, न्यायिक सदस्य एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष ।
BEFORE SRI MAHAVIR SINGH, JM AND SRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं./ ITA No. 931/Mum/2018

(निर्धारण वर्ष / Assessment Year 2009-10)

Narayan H. Ladha 159-160, Malad shopping Centre, S.V. Road, Malad (W), Mumbai-64	बनाम/ Vs.	The Commissioner of Income Tax (Appeal)-41, C-10, Pratyaksha Kar Bhavan, B.K. C. Bandra (E), Mumbai-400 051
(अपीलार्थी / Appellant)		(प्रत्यर्थी/ Respondent)
स्थायी लेखा सं./ PAN No. AAAPL2306C		

अपीलार्थी की ओर से / Appellant by	:	None
प्रत्यर्थी की ओर से / Respondent by	:	Ms. Kavita P. Kaushik, DR

सुनवाई की तारीख / Date of hearing:	14.01.2020
घोषणा की तारीख / Date of pronouncement:	14.01.2020

आदेश / ORDER

महावीर सिंह, न्यायिक सदस्य/

PER MAHAVIR SINGH, JM:

This appeal by the assessee is arising out of the order of Commissioner of Income Tax (Appeals)-41, Mumbai in Appeal No. CIT(A)-41/IT-239/2013-14 dated 20.12.2017. The



Assessment was framed by the Income Tax Officer, Ward-24(1)(1), Mumbai (in short ITO / AO) for AY 2009-10 vide dated 19.12.2013, under section 143(3) read with section 263 of the Income-tax Act, 1961 (hereinafter 'the Act').

2. We have noticed from the grounds of appeal raised before us that the CIT(A) decided the issue ex-parte without providing the opportunity of being heard to the assessee and ignore the material placed before him. For this, assessee has raised the following ground: -

"1. The learned commissioner of income tax (Appeal) has erred in confusing the Assessment order without brining any material on record to revise the assessment order and ignoring the material place before him."

3. At the outset, it is noticed that none was present from assessee's side and this appeal is decided ex-parte qua the assessee.

4. We have noticed that the order of CIT(A) is ex-parte and even the CIT(A) confirmed the addition simply on the basis of AO's finding. On query from the Bench, the learned Sr. Departmental Representative agreed that the matter can be remanded back to the file of the AO for fresh adjudication on



merits after allowing reasonable opportunity of being hearing to the assessee.

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

Order pronounced in the open court on 14.01.2020.

Sd/-

(मनोज कुमार अग्रवाल / MANOJ KUMAR AGGARWAL)
(लेखा सदस्य / ACCOUNTANT MEMBER)

Sd/-

(महावीर सिंह / MAHAVIR SINGH)
(न्यायिक सदस्य/ JUDICIAL MEMBER)

मुंबई, दिनांक/ Mumbai, Dated: 14.01.2020

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