

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

BEFORE SHRI R.C.SHARMA, ACCOUNTANT MEMBER

**ITA No.751/Mum/2019
(Assessment Year: 2010-11)**

Sadanand Karkera, 702, Shreenath Apartment, G.T. Road, Mulund (East), Mumbai- 400081.	Vs.	I.T.O.-23(3)(3) Room No. 404, Aayakar Bhavan, Bandra Kurla Complex, Bandra West, Mumbai-400051.
PAN/GIR No. AAYPK 0047 M		
(Appellant)	..	(Respondent)

Assessee by	Shri Aditya Ramchandra (CA)
Revenue by	Shri R.K. Gubgotra (JCIT-DR)
Date of Hearing	04/02/2020
Date of Pronouncement	06/02/2020

आदेश / ORDER

PER: R.C. SHARMA, A.M.

This appeal by the assessee is directed against the ex parte order dated 28/11/2018 of Id. CIT(A)-40, Mumbai for the A.Y. 2010-11 in the matter of order passed U/s 144 r.w.s. 147 of the Income Tax Act, 1961 (in short, the Act).

2. It was argued by the Id AR of the assessee that before the Id. CIT(A), the assessee has filed detailed submissions challenging validity of reopening. Our attention was invited to the details filed before the Id. CIT(A) on 23/05/2016 wherein the assessee has objected reopening and also given details for the payment made with

regard to credit card amounting to Rs. 3,40,857/- which includes opening balance of Rs. 87,826/- and interest and financial charges of Rs. 29,494/-. In the assessee's submissions, it was explained as to why said amount cannot be added as income from undisclosed sources and as to why the stand taken by the A.O. is not correct. However, without going into all these details, the Id. CIT(A) has summarily dismissed the assessee's appeal on the plea that no body appeared before him. The Id. CIT(A) has also not given any finding on the merit of the addition so made by the A.O. In terms of provisions of sub-section (6) of Section 250 of the Act, the order of the Commissioner (Appeals) disposing of the appeal should be in writing and shall state the points for determination, the decision thereon and the reason for the decision. Therefore, in the substantial interest of justice, we set aside the ex parte order of the Id. CIT(A) and restore the matter back to the file of Id. CIT(A) for deciding the matter afresh on merit after providing due and reasonable opportunity of hearing to the assessee. The assessee is also directed to appear before the Id. CIT(A) within 60 days from the date of receipt of this order. In case of any failure on the part of assessee, the Id. CIT(A) is at liberty to pass order on merits after considering the material placed on record.

3. In the result, appeal of the assessee is allowed in part for statistical purposes only.

Order pronounced in the open court on 06th February, 2020.

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

Mumbai; Dated 06/02/2020
*Ranjan

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

सत्यापित प्रति //True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai