

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

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

**ITA No. 960/Mum/2019  
(Assessment Year: 2009-10)**

Shri Alkesh Parekh, Office No. 9 & 10, 21 & 22, A Wing Satyam Shopping Center, M.G. Road, Ghatkopar East, Mumbai-400077.	Vs.	I.T.O.-13(3)(3) Aayakar Bhavan, M.K. Road, Mumbai-400020.
<b>PAN/GIR No. AADPP 3668 E</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

Assessee by	Gaurav Kabda (AR)
Revenue by	Shri R.K. Gubgotra (JCIT-DR)
<b>Date of Hearing</b>	<b>06/02/2020</b>
<b>Date of Pronouncement</b>	<b>07/02/2020</b>

**आदेश / O R D E R**

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

This appeal by the assessee is directed against the ex parte order dated 10/01/2019 of Id. CIT(A)-55, Mumbai for the A.Y. 2009-10 in the matter of order passed U/s 143(3) r.w.s. 263 of the Income Tax Act, 1961 (in short, the Act).

2. In this appeal, the assessee is basically aggrieved for the ex parte order passed by the Id. CIT(A) without giving opportunity of hearing to the assessee. The Id AR of the assessee has drawn our attention to the address mentioned in Form No. 36 and it was

contended that notices sent by the Id. CIT(A) was on different address which could not be received by the assessee, therefore, nobody could appear on behalf of the assessee. It was prayed that ex parte order should be set aside.

3. I have considered the rival contentions and found that the Id. CIT(A) has passed ex parte order on 10/01/2019 on the plea that nobody appeared on behalf of the assessee. As per the facts narrated by the Id AR the address on which the Id. CIT(A) has sent the notice was changed and no notice could be served on the assessee, therefore, non-appearance of the assessee before the Id. CIT(A) was on the reasonable ground. 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.

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

Order pronounced in the open court on 07<sup>th</sup> February, 2020.

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

Mumbai; Dated 07/02/2020

\*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.

BY ORDER,

सत्यापित प्रति //True Copy//

(Asstt. Registrar)  
**ITAT, Mumbai**