

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

**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND  
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

**ITA NO. 1114/MUM/2019**

**A.Y : 2010-11**

Basantilal Deepchand Kothari  
302, Alps Heights, Dr. R.P. Road,  
Mulund (W), Mumbai 400 080.  
**PAN : ALUPK6647E** (Appellant)

vs. CIT(A) – 40,  
Mumbai. (Respondent)

**Appellant by : None**

**Respondent by : Ms. Kavita P. Kaushik**

**Date of Hearing : 29/01/2020**

**Date of Pronouncement : 29/01/2020**

**ORDER**

**PER MAHAVIR SINGH, VICE PRESIDENT**

This appeal is filed by the assessee against the order of CIT(A)-40, Mumbai dated 20.12.2018 for assessment year 2010-11 which in turn has arisen from order of Assessing Officer passed under Section 143(3) r.w.s. 147 of the Income Tax Act, 1961 (in short 'the Act') dated 15.12.2017.

2. None appeared for the assessee. At the outset, we noticed that the CIT(A) has passed an *ex parte*, non-speaking order vide para 3 of the impugned order, which reads as under :

*“3. On verification of the records available in our office, there is no letter filled by the AR of the appellant in response to the said notice either for adjournment or why the appellant or his AR is not able to attend. In the absence of any reply or attendance in response to above notice and also on perusing the records available with the office of the undersigned, it appears that the appellant after filling the appeal is not interested in pursuing the appellate proceedings and hence the appeal filed is hereby dismissed.”*

3. We noted that the CIT(A) has dismissed the appeal of assessee without passing a speaking order just for the absence of the assessee, i.e. for default of the assessee. The learned DR agreed that the matter can be restored back to the file of CIT(A) for allowing reasonable opportunity of being heard to assessee and also for passing a speaking order on merits. Hence, we set aside the order of CIT(A) and remand the matter back to his file.

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

Order pronounced in the open court on 29<sup>th</sup> January, 2020.

Sd/-  
**(MANOJ KUMAR AGGARWAL)**  
**ACCOUNTANT MEMBER**

Sd/-  
**(MAHAVIR SINGH)**  
**VICE PRESIDENT**

Mumbai, Date : 29<sup>th</sup> January, 2020

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Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The CIT(A) concerned
- 4) The CIT concerned
- 5) The D.R, "B" Bench, Mumbai
- 6) Guard file

By Order

Dy./Asstt. Registrar  
I.T.A.T, Mumbai