

**IN THE INCOME TAX APPELLATE TRIBUNAL “C”  
BENCH, MUMBAI**

**BEFORE SHRI SAKTIJIT DEY, JM &  
SHRI S. RIFAUR RAHMAN, AM**

आयकरअपीलसं./ I.T.A. No. 4524/Mum/2017  
(निर्धारणवर्ष / Assessment Year: 2006-07)

M/s Pinetree Packaging Pvt. Ltd. C-1002, Lotus Corporate Park, Ram Mandir Road, Off-W.E. Highway, Goregaon East, Mumbai-400 063.	<b>बनाम/ Vs.</b>	CIT(A) – 20 Mumbai
स्थायीलेखासं./जीआइआरसं./PAN No. AADCP4578J		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

अपीलार्थीकीओरसे/ <b>Appellant by</b>	:	Shri Deepak Shah, AR
प्रत्यर्थीकीओरसे/ <b>Respondentby</b>	:	Shri Kumar Padmapani Bora, DR
सुनवाईकीतारीख/ <b>Date of Hearing</b>	:	18.12.2019
घोषणाकीतारीख / <b>Date of Pronouncement</b>	:	10.01.2020

आदेश / ORDER

**Per S. Rifaur Rahman, Accountant Member:**

The present Appeal has been filed by the assessee against  
the order of Ld. Commissioner of Income Tax - 20 in short

referred as 'Ld. CIT(A)', Mumbai, dated 22.04.10 for Assessment Year (in short AY) 2006-07.

2. After hearing Ld. AR at some length, we noticed that assessee had not appeared before Ld. CIT(A), therefore Ld. CIT(A) had passed ex-parte order and now, assessee had challenged the order of Ld. CIT(A) on the ground that no sufficient opportunity of hearing was given to the assessee apart from other grounds mentioned in the grounds of appeals. Ld. AR further submitted that the ex-parte order passed by Ld. CIT(A) is bad in law.

3. On the other hand, Ld. DR submitted that assessee has taken adjournments many times, however he agreed this may be remitted back to the file of Ld. CIT(A) for adjudication.

4. Considering the rival submission and material placed on record, we notice from the records that Ld. CIT(A) had passed an ex-parte order as nobody appeared on behalf of the assessee. Since assessee has submitted sufficient cause for non-

appearance before Ld. CIT(A), the assessee should be given one more opportunity to represent its case.

5. Considering the facts and circumstances of the present case and we notice that Ld. CIT(A) has dismissed the appeal by fixing the hearing on 23.03.10 and on record, that is the only hearing date. It shows that Ld. CIT(A) has given only one opportunity and since notice returned unserved with the remark 'Left', he chose to dismiss the appeal. We are of the considered view that the ends of justice would be met only when we set aside the ex-parte order passed by the learned CIT(A) and restore back the matter to the file of the Ld. CIT(A) for deciding it afresh on merits after providing opportunity of hearing to the assessee.

6. Before parting, we may make it clear that our decision to restore the matter back to the file of Ld. CIT(A) shall in no way be construed as having any reflection or expression on the merits of the dispute, which shall be adjudicated by Ld. CIT(A) independently in accordance with law. With these directions, the

grounds of appeal raised by the assessee are **partly allowed for statistical purposes.**

7. In the net result, the appeal filed by the assessee stands **partly allowed for statistical purposes.**

*Order pronounced in the open court on 10<sup>th</sup> Jan 2020.*

<i>Sd/-</i> (Saktijit Dey) न्यायिकसदस्य / Judicial Member	<i>Sd/-</i> (S. Rifaur Rahman) लेखासदस्य / Accountant Member
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मुंबई Mumbai; दिनांक Dated : 10.01.2020  
Sr.PS. Dhananjay

**आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT- concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File  
आदेशानुसार/ BY ORDER,

**उप/सहायकपंजीकार (Dy./Asstt.Registrar)**  
**आयकरअपीलीयअधिकरण, मुंबई/ ITAT, Mumbai**