

आयकर अपील अाधिकरण, राजकोट ँयायपीठ, राजकोट ।
**IN THE INCOME TAX APPELLATE TRIBUNAL
RAJKOT BENCH, RAJKOT
BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER
And
Ms MADHUMITA ROY, JUDICIAL MEMBER**

आयकर अपील सं./I.T.A. No.88/Rjt/2019
(नधाण वष Assessment Year 2009-10)

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| M/s.Yamuna Motors Pvt. Ltd., Jamnagar-Rajkot Highway, Auto City, At. Hapa, Jamnagar. | बनाम/ Vs. | I.T.O., Ward-3(2), Jamnagar. |
| थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAACY2139F | | |
| (अपीलाथ /Appellant) | | (पयथ / Respondent) |

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| अपीलाथ ओर से / Appellant by : | Shri Chetan Agarwal, A.R |
| पयथ क ओर से/Respondent by : | Shri Suhs Mistry, Sr. D.R. |

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| सुनवाई क तारख / Date of Hearing | 27/02/2020 |
| घोषणा क तारख /Date of Pronouncement | 28/02/2020 |

आदेश / O R D E R

PER BENCH:

The captioned appeal has been filed at the instance of the Assessee against the order of the Learned Commissioner of Income Tax (Appeals), Rajkot [Ld. CIT(A) in short] dated 13/09/2017 arising in the matter of assessment order passed under s. 143(3) r.w.s 144, 147 & 145(3) of the Income Tax Act, 1961 (hereinafter referred to as "the Act") dated 26/03/2015 relevant to the Assessment Years (A.Y.) 2009-10.

2. At the outset we find that the AO and learned CIT (A) has passed the ex-parte order qua the assessee without the hearing the assessee on merit as the

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assessee failed to appear before them. The provisions of section 250(6) of the Income Tax Act, 1961 casts obligation upon the Ld. CIT(A) to pass a reasoned order after giving a proper opportunity of hearing to the assessee. Accordingly, in the interest of justice and fair play we are inclined to set aside the order to the file of the AO for fresh adjudication. But we find that the assessee has adopted the negligent/dilly-dally approach in pursuing the matter before the AO as well as before the Ld.CIT(A) which cannot be neglected/ignored. Therefore, we are inclined to levy a cost of Rs. 5,000/- upon the assessee for adopting the negligent approach. Accordingly, we direct the assessee to deposit a sum of Rs. 5,000/- to the Income Tax Department prior to the commencement of hearing before the AO.

In view of the above and after considering the facts in totality, in the interest of justice and fair play we set aside the matter to the file of the AO for fresh adjudication as per the provisions of law. Hence the ground of appeal of the assessee is allowed for statistical purposes.

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

This Order pronounced in Open Court on 28/02/2020

-Sd-
(MADHUMITA ROY)
JUDICIAL MEMBER

-Sd-
(WASEEM AHMED)
ACCOUNTANT MEMBER

Rajkot, Dated 28/02/2020
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