

**INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "FRIDAY / A": NEW DELHI**

**BEFORE SHRI G.S. PANNU, HON'BLE VICE PRESIDENT  
AND  
SHRI K. NARASIMHA CHARY, JUDICIAL MEMBER**

**ITA No.3677/Del/2019  
(Assessment Year: 2015-16)**

Marathon Money Market Ltd., Vs DDIT  
183, Cripa Marg, Circle – 16(1),  
Sainik Farm, New Delhi.  
New Delhi – 110 019  
PAN: AAACM 7888 F

Appellant

Respondent

Revenue by : Shri Amil Jain, FCD  
Assessee by: Shri Saras Kumar, Sr. D.R.

Date of Hearing:06.03.2020  
Date of pronouncement:06.03.2019

**ORDER**

**PER K. NARASIMHA CHARY, JM**

This is an appeal filed by the assessee against the order dated 18.02.2019 passed by the learned Commissioner of Income-tax (Appeals)-37, New Delhi ("Ld. CIT(A)") for the Asstt. Year 2015-16.

2. At the outset, it is brought our notice that the Learned AR with the impugned order was passed by the Learned CIT(A) ex-parte without referring to the merits of the case by noting that none was present for

the assessee. The Learned AR submitted that as a matter of fact on the last date of hearing the Counsel appeared but either by mistake or erroneously the presence of the advocate is not noted. He submitted that there is no register maintained by the authorities where the Counsel could mark their appearance.

3. Per contra, the Learned DR submitted that the submissions made by the Learned AR are not reflected on the face of the record, and the impugned order shows that in spite of several opportunities there was no cooperation from the assessee. Learned DR, however, fairly conceded that since the endeavor of the department is to assess the just tax liability of the assessee, and therefore, he has no objection to give an opportunity to the assessee.

4. We have gone through the records in the light of the submissions made on the either side. From the impugned order it could be seen that the Learned CIT(A) noted several dates of hearing fixed in this appeal, and noting that there was no corporation from the assessee, he observed that the irreducible conclusion would be that the assessee lost interest in this matter.

5. Be that as it may, even in the absence of the assessee, the Ld. CIT(A) is free to proceed with the matter, but the requirement of the law is that the appeal should be disposed of on merits instead of dismissing it *in lumine*. Nothing prevents the Ld. CIT(A) from adverting to the merits of the case as could be culled out from the record and reach a reasonable conclusion by assigning reasons. For want of reasons, we are unable to assess the merits of case. In these circumstances, we set aside the

impugned order and remand the matter to the file of the Ld. CIT(A) for disposal afresh in accordance with law, but on merits. Needless to say, that the Ld. CIT(A) would afford an opportunity to the assessee before passing the order. We make it clear that it does not mean that the Ld. CIT(A) cannot proceed ex-parte. What all we say is that the disposal order shall contain the reasons for conclusions.

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

Order pronounced in the open court on 06 March, 2020.

Sd/-  
**(G.S. PANNU)**  
**VICE PRESIDENT**  
**Dated: 06 March, 2020.**  
**PY\***

Sd/-  
**(K. NARASIMHA CHARY)**  
**JUDICIAL MEMBER**

Copy forwarded to  
1. Appellant  
2. Respondent  
3. CIT  
4. CIT (A)  
5. DR:ITAT

ASSISTANT REGISTRAR  
ITAT, New Delhi