

**IN THE INCOME TAX APPELLATE TRIBUNAL “SMC”, BENCH MUMBAI
BEFORE HON’BLE SHRI MAHAVIR SINGH, VICE PRESIDENT
&
HON’ BLE SHRI G. MANJUNATHA, ACCOUNTANT MEMBER**

**ITA No.1731/Mum/2019
(Assessment Year: 2015-16)**

M/s AKSHAR SPACE PRIVATE LIMITED #230, Big Splash, Sector-17, Vashi, Mumbai-400 703	Vs.	Income Tax Officer, Ward 15(1)(1) Mumbai
PAN/GIR No.AAHCA7956R		
(Appellant)	..	Respondent)

Assessee by	None
Revenue by	Shri. Akhtar Hussain Ansari – JCIT, Sr. DR
Date of Hearing	17/06/2020
Date of Pronouncement	17/06/2020

आदेश / O R D E R

PER BENCH:

This appeal filed by the assessee is directed against order of the Ld. Commissioner of Income tax (Appeals)- 24, Mumbai, dated 06/12/2018 and it pertains to AY 2015-16.

2. None appeared for the assessee. We have heard the Ld. DR, perused the material available on record and gone through orders of the authorities below. At the outset, we find that the Id. CIT(A) has dismissed appeal filed by the assessee, in *limine*, for non appearance of the assessee or his authorized representative, despite providing various opportunity of hearing as claimed by the Id. CIT(A), but such appeal has not been decided on merits. No doubt, it is the responsibility of the person who had filed appeal to go to the

appellate authority and present his/her case as and when the case is fixed for hearing. In case, the appellant does not choose to appear, then the appellate authority is left with no option, but to dispose off, appeal filed by the appellant, however such appeal should be disposed off, on merits on the basis of materials available on record. In this case, although we cannot find fault with the Id. CIT(A) for disposal of appeal filed by the assessee for non appearance, but certainly, there is a lacuna in the order of the Id. CIT(A) for not discussed the issues involved in appeal on merits and for this reason we cannot sustain order of the Id. CIT(A). We, therefore, for the above reason set aside the order of the Id. CIT(A) and restored the appeal back to his file and direct the Id. CIT(A) to decide the appeal on merits in accordance with law with an opportunity of hearing to the assessee. Needless to say, the assessee shall appear before the Id. CIT(A) and present its case. In cawse, there is response from the assessee, the Id. CIT(A) is free to dispose off, appeal in accordance with law.

3. In the result, appeal filed by the assessee is treated as allowed for statistical purpose.

Order pronounced in the open court on this: 17/06/2020

Sd/-
(MAHAVIR SINGH)
VICE PRESIDENT

Sd/-
(G. MANJUNATHA)
ACCOUNTANT MEMBER

Mumbai; Dated:17/06/2020

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.

सत्यापित प्रति //True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai