

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

**BEFORE SHRI SHAMIM YAHYA, AM**

आयकर अपील सं/ I.T.A. No. 4903/Mum/2018

(निर्धारण वर्ष / Assessment Year: 2004-05)

Rashmeen R. Wani 12/847 Abhuday Nagar, G. D. Ambedkar Marg, Kala Chowki, Mumbai-400033.	<b>बनाम/</b> Vs.	ITO 15(1)(4) Room No.621, Piramal Chabers, Lalbaug, Parel, Mumbai-400012.
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAQPW0994F		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
Assessee by:	None	
Revenue by:	Shri Chaitanya Anjaria	

सुनवाई की तारीख / Date of Hearing: 19/02/2020

घोषणा की तारीख /Date of Pronouncement: 20/04/2020

**आदेश / O R D E R**

**PER SHAMIM YAHYA, AM:**

This is an appeal by the assessee against the order of learned CIT-A dated 29.05.2018 pertaining to assessment year 2004-05 wherein learned CIT-A has dismissed the appeal for non-prosecution and thereby confirmed the addition of Rs.3,91,037/- as undisclosed income on share transaction which included shares of Infosys Technologies and TVS electronics.

2. Upon hearing Ld. DR and perused the records, I find that it is incumbent upon the learned CIT-A to pass an order on the merits of the case and not dismiss the appeal for non-prosecution.

3. For this proposition I place reliance upon following case laws.



ITA. NO.4903/M/2018  
A.Y.2004-05

1. CIT vs Premkumar Arjundas Luthra (HUF) (2017) 154 DTR (Bom)302

2. CIT vs S Chenniappa Mudaliar(1969)74 ITR 1(SC)

4. Accordingly, in the interest of justice I remit the issue raised in the appeal to to the file of the learned CIT(A). Learned CIT-A is directed to consider the issue afresh and pass an order on the merits of the case after giving the assessee proper opportunity of being heard.

In the result this appeal by the assessee stands allowed for statistical purposes.

Order pronounced in the open court on 20/04/2020

**Sd/-**

**(SHAMIM YAHYA)**

**लेखा सदस्य / ACCOUNTANT MEMBER**

मुंबई Mumbai; दिनांक Dated : 20/04/2020

Vijay Pal Singh/Sr. PS

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

**आदेशानुसार/ BY ORDER,**

सत्यापित प्रति //True Copy//

**उप/सहायक पंजीकार / (Dy./Asstt. Registrar)**  
**आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai**