IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "C", MUMBAI

BEFORE SHRI C.N. PRASAD, HON'BLE JUDICIAL MEMBER AND SHRI M. BALAGANESH, HON'BLE ACCOUNTANT MEMBER

ITA NO. 5604/MUM/2018 (A.Y: 2012-13)

M/s. Chaitanya Enterprises Radhakunj Bunglow Opp. Corporation Bank I.C. Colony, Borivali (W) Mumbai – 400 103 **PAN: AAGFC3121L**	*v.*	ACIT – 30(1) Mumbai
(Appellant)		**(Respondent)**

Assessee by	**:**	**None**
Department by	**:**	**Shri Padmapani Bora**
Date of Hearing	**:**	**06.02.2020**
Date of Pronouncement	**:**	**30.09.2020**

O R D E R

PER C.N. PRASAD (JM)

1. This appeal is filed by the assessee against the order of the Learned Commissioner of Income Tax (Appeals) – 41, Mumbai [hereinafter in short "Ld.CIT(A)"] dated 02.07.2018 for the Assessment Year 2012-13.

2. Assessee has raised the following grounds in its appeal: -

> *"1. On the facts and circumstances of the case and law on the subject the learned commissioner of Income Tax (Appeals) erred in deciding the appeal Ex- Parte against assessment order under section 143(3) of the Income Tax Act.*

2) On the facts and circumstances of the case and law on the subject the learned Assessing officer erred in disallowing expenses of Rs.4,00,000/- as provision for site completion expenses.

3) On the facts and circumstances of the case and law on the subject the learned Assessing officer erred in disallowing Rs.22,96,270 being outstanding service Tax as on 31.3.2011 u/s43B. On the facts and circumstances of the case and law on the subject the CIT (A) erred in upholding the same & the addition made be deleted.

4) The appellant craves leave to add/modify, delete the grounds of appeal on or before date of hearing."

3. We have heard Ld. DR, perused the orders of the authorities below. On a perusal of the Ld.CIT(A) order, we find that even though the Ld.CIT(A) provided opportunity on several occasions assessee could not appear before the Ld.CIT(A). Considering the totality of facts and circumstances of the case and keeping in view the additions/disallowance made by the Assessing Officer, in the interest of justice we are of the opinion that assessee should be given one more opportunity of being heard. Thus, this appeal is restored to the file of the Ld.CIT(A) for denovo adjudication in accordance with law. Assessee shall cooperate with the proceedings before the Ld.CIT(A) without taking unnecessary adjournments. Thus, this appeal is restored to the file of the Ld.CIT(A) accordingly.

4. In the result, appeal of the assessee is allowed for statistical purpose.

5. Before parting, we noticed that this appeal was heard on 06.02.2020 and the pronouncement is delayed due to lockdown in view of COVID-19 pandemic. The pronouncement is as per Rule 34(5) of Income Tax Appellate Tribunal Rules, 1963 and Hon'ble Bombay High Court decision vide orders dated 15.04.2020 and 15.06.2020 extending the time bound periods specified by Hon'ble High Court by removing the period under lockdown. This aspect was also dealt with in detail by the Mumbai Bench of the Tribunal in case of DCIT v. JSW Steel Vide order dated 14.05.2020 in ITA.No. 6264/Mum/2018.

Order pronounced on 30.09.2020 as per Rule 34(4) of ITAT Rules by placing the pronouncement list in the notice board.

Sd/-	Sd/-
(M. BALAGANESH)	**(C.N. PRASAD)**
ACCOUNTANT MEMBER	**JUDICIAL MEMBER**

Mumbai / Dated 30/09/2020
Giridhar, Sr.PS

<u>Copy of the Order forwarded to</u>:

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER

(Asstt. Registrar)
ITAT, Mum