

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "G", MUMBAI**

**BEFORE SHRI C.N. PRASAD, HON'BLE JUDICIAL MEMBER AND
SHRI N.K. PRADHAN, HON'BLE ACCOUNTANT MEMBER**

ITA NO. 5997/MUM/2018 (A.Y: 2013-14)

M/s. Shah Shantilal & Co 401, Cente Point, Lalbaug Parel, Mumbai – 400 012 PAN: AAIFS3145C	v.	ACIT – 17(3) Mumbai
(Appellant)		(Respondent)

Assessee by : Shri Gaurav Kabra

Department by : Shri Vinod Kumar

Date of Hearing : 19.02.2020

Date of Pronouncement : 30.09.2020

ORDER

PER C.N. PRASAD (JM)

1. This appeal is filed by the assessee against the order of the Learned Commissioner of Income Tax (Appeals) -28, Mumbai [hereinafter in short "Ld.CIT(A)"] dated 10.08.2018 for the Assessment Year 2013-14.

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

"1) On the facts and circumstances of the case as well as in law, the Learned CIT(A) has erred in passing ex-parte order without granting sufficient opportunity of being heard to the appellant.

2) On the facts and circumstances of the case as well as in law, the Learned CIT(A) has erred in confirming the action of Learned Assessing Officer in allowing the carry forward of loss of

Rs.5,72,616/- instead of Rs.33,07,872/- without considering the facts and circumstances of the case.

3) On the facts and circumstances of the case as well as in law, the Learned CIT(A) has erred in disallowing the claim of Short Term Capital Loss of Rs. 31,98,919/- without considering facts and circumstances of the case.

4) The appellant craves leave to add, amend, alter or delete the said ground of appeal."

3. Ld. Counsel for the assessee submits that Ld.CIT(A) passed exparte order without providing adequate opportunity of being heard to the assessee, therefore, considering additions/disallowance made by the Assessing Officer Ld. Counsel for the assessee requested that the matter may be restored to the file of the Ld.CIT(A).

4. Ld. DR has no serious objection in remitting the matter back to the file of the Ld.CIT(A).

5. We have heard the submissions, perused the orders of the authorities below. On a perusal of the Ld.CIT(A) order, we find that the even though the Ld.CIT(A) provided opportunity on several occasions assessee could not appear. Considering the totality of facts and submissions of the Ld. Counsel for the assessee and keeping in view the additions/disallowance made by the Assessing Officer, 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.

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

7. Before parting, we noticed that this appeal was heard on 19.02.2020 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/-
(N.K. PRADHAN)
ACCOUNTANT MEMBER
Mumbai / Dated 30/09/2020
Giridhar, Sr.PS

Sd/-
(C.N. PRASAD)
JUDICIAL MEMBER

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.

//True Copy//

BY ORDER

(Asstt. Registrar)
ITAT, Mum