

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

**BEFORE SHRI RAJESH KUMAR, ACCOUNTANT MEMBER AND  
SHRI AMARJIT SINGH, JUDICIAL MEMBER**

**ITA No.546/M/2019  
Assessment Year: 2012-13**

M/s. Sukhidevi Ramesh Kumar Haran, 52-B, Heera Panna CHS, Haji Ali, Mumbai – 400 036 <b>PAN: AAFPH 1617P</b>	Vs.	ACIT, Circle-19(3), Matru Mandir, Room No.206, Tardeo Road, Mumbai – 400 007
(Appellant)		(Respondent)

**Present for:**

Assessee by : Shri K. Gopal, A.R.  
Revenue by : Shri V. Vinod Kumar, D.R.

Date of Hearing : 21.09.2020

Date of Pronouncement : 25.09.2020

**ORDER**

**Per Rajesh Kumar, Accountant Member:**

The present appeal has been preferred by the assessee against the order dated 17.12.2018 of the Commissioner of Income Tax (Appeals) [hereinafter referred to as the CIT(A)] relevant to assessment year 2012-13.

2. The assessee, in ground No.1, has challenged the order of Ld. CIT(A) being ex-parte passed without giving any proper opportunity to the assessee to present his case on merit.

3. The Ld. A.R. prayed before the Bench that the Ld. CIT(A) has passed the order without affording a reasonable opportunity of hearing to the assessee and also by not supplying and confronting the assessee the remand report called for from the

AO during appellate proceedings which has deprived the assessee of his lawful right to present the appeal on the merit thereby causing miscarriage of principles of natural justice. The Ld. A.R., therefore, prayed that the appeal should be restored to the file of the Ld. CIT(A) so that the same could be heard and disposed of on merit after hearing the assessee.

4. The Ld. D.R., on the other hand, submitted that though the order passed by Ld. CIT(A) ex-parte but assessee appeared through Shri Sanjay Modi, Authorised Representative during the appellate proceedings and also filed written submission. So far as non confronting of the remand report to the assessee is concerned the ld. DR submitted that the AO furnished remand report on 10.10.2018. Thereafter a notice was issued to the assessee however no response was received and finally the case was decided ex-parte. The Ld. D.R., therefore, prayed that the request of the assessee to set aside the issue to the file of the Ld. CIT(A) may kindly be dismissed.

5. After hearing both the parties and perusing the material on record, we observe that the case was decided ex-parte by Ld. CIT(A) without hearing the assessee on merit. Besides, the remand report called for during appellate proceedings was not supplied to the assessee on which the Ld. CIT(A) has placed reliance while passing the appellate order. Under these circumstances, in our considered view, the principle of natural justice would be met if the appeal is restored to the file of the Ld. CIT(A) to be heard on merit after affording a reasonable opportunity of hearing to the assessee. Accordingly, we set aside the appeal to the file of the Ld. CIT(A) to dispose of the

same on merit after affording a reasonable opportunity to the assessee. Ground No.1 is allowed.

6. Since we have restored the appeal to the file of the Ld. CIT(A), there is no need to adjudicate the remaining grounds raised by the assessee.

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

**Order pronounced in the open court on 25.09.2020.**

**Sd/-  
(Amarjit Singh)  
JUDICIAL MEMBER**

**Sd/-  
(Rajesh Kumar)  
ACCOUNTANT MEMBER**

Mumbai, Dated: 25.09.2020.

\* Kishore, Sr. P.S.

Copy to: The Appellant  
The Respondent  
The CIT, Concerned, Mumbai  
The CIT (A) Concerned, Mumbai  
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.