

IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH, MUMBAI
BEFORE SHRI AMARJIT SINGH, JM AND SHRI MANOJ KUMAR
AGGARWAL, AM

आयकर अपील सं/ I.T.A. Nos. 2086, 2087 & 2089/Mum/2018
(निर्धारण वर्ष / Assessment Years: 2009-10, 2011-12 & 2010-11)

M/s. Agroha Udyog India Ltd. B-22, 204/2015, Garden Enclave, Vasant Vihar, Thane-400607	<u>बनाम/</u> Vs.	ITO Ward 1(1) Thane. Thane Room No. 23, 6 th Floor, B Wing, Ashar IT Park, Road No. 16Z Wagle Ind. Estate, Thane West-400604.
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAECA1414B		
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)
Assessee by:	Ms. Ruchi Rathod (AR)	
Revenue by:	Shri Michael Jerald (DR)	

सुनवाई की तारीख / Date of Hearing: 19/10/2020
घोषणा की तारीख /Date of Pronouncement: 11/11/2020

आदेश / O R D E R

PER AMARJIT SINGH, JM:

The assessee has filed the above mentioned appeals against the order dated 17.02.2017 passed by the Commissioner of Income Tax (Appeals) - 03, Thane [hereinafter referred to as the “CIT(A)”] relevant to the A.Ys.2009-10, 2011-12 & 2010-11 respectively. Since the common question of law and facts are involved in the present appeal, therefore, all the appeals are taken up together for adjudication.

ITA. No.2086/M/2018

2. We have heard the argument advanced by the Ld. Representative of the parties and perused the record. In fact, the Ld. Representative of the assessee did not argue the case on merits but argued on this point that the



CIT(A) has decided the matter of controversy in absence of the assessee and without giving an opportunity of being heard to the assessee in accordance with law, therefore, the finding of the CIT(A) is not justifiable, hence, is liable to be set aside in the interest of justice. However, on the other hand, the Ld. Representative of the Department has refuted the said contention. On appraisal of the order passed by the CIT(A) dated 17.02.2017, we find that the CIT(A) has decided the matter of controversy in absence of the assessee/Representative of the Assessee without giving an opportunity of being heard to the assessee in the accordance with law. A proper and reasonable opportunity is required to be given to the assessee before deciding the matter of controversy in accordance with law.

3. For this proposition we place reliance upon the following case laws.

- (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, we set aside the finding of the CIT(A) on all the issues and remit the issue raised in the appeal to the file of the AO. AO is directed to consider the issue afresh and pass an order on the merits of the case after giving a proper opportunity of being heard to the assessee in accordance with law.

ITA. Nos. 2087/M/2018 & 2089/M/2018

5. The facts of the present case are quite similar to the fact of the case as narrated above while deciding the ITA. No.2086/M/2018, therefore, there is no need to repeat the same. However, the figure is different. The matter of controversy is also the same. The finding given above in ITA. No.2086/M/2018 is quite applicable to the facts of the present case as



ITA Nos. 2086, 2087 & 2089/M/2018
A.Ys. 2009-10, 2011-12 & 2010-11

mutatis mutandis. Accordingly, we allowed the appeals for statistical purposes.

6. In the result, the appeals filed by the assessee are allowed for statistical purposes.

Order pronounced in the open court on 11/11/2020

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखा सदस्य / ACCOUNTANT MEMBER
मुंबई Mumbai; दिनांक Dated : 11/11/2020
Vijay Pal Singh/ Sr. PS

Sd/-
(AMARJIT SINGH)
न्यायिक सदस्य/JUDICIAL MEMBER

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