

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

**BEFORE SHRI PRAMOD KUMAR, VICE PRESIDENT &
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER**

**ITA No. 1797/Mum/2020
(Assessment Years: 2013-14)**

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|---|----------------------|--|
| Dinesh Kumar Suthar 5 Jolly Bhavan, No-2, Ground Floor, 7 New Marine Lines, Mumbai – 400020 | बनाम/ Vs. | DCIT, CC-2(4) 10 th Floor, Old CGO Building, MK Road, Mumbai – 400 020 |
| स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : CWUPS6156D | | |
| (अपीलार्थी /Appellant) | .. | (प्रत्यर्थी / Respondent) |

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|-------------------------------------|-------------------------------|
| अपीलार्थी ओर से/ Appellant by : | Shri Prakash Jhunjhunwala, AR |
| प्रत्यर्थी की ओर से/Respondent by : | Shri Sunil Deshpande, DR |

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|---------------------------------------|------------|
| सुनवाई की तारीख / Date of Hearing | 20/11/2020 |
| घोषणा की तारीख /Date of Pronouncement | 03/12/2020 |

आदेश / O R D E R

PER PAVAN KUMAR GADALE - JM:

The assessee has filed an appeal against the order of Commissioner of Income Tax (Appeals) -48, Mumbai passed u/s. 271AAB and 250 of the Income Tax Act, 1961.

2. At the time of hearing, the Ld. Counsel for the assessee submitted that there is a delay in filing the

appeal before the Tribunal and filed the condonation petition along with affidavit. Further, the Ld CIT(A) has passed an ex-parte order and the assessee has to file evidences on the disputed issue, which goes to the roots of the case and prayed for an opportunity to substantiate the case before the CIT(A). Contra, Ld. DR has no specific objection.

3. We heard the rival submissions and perused the material on record. We found the facts mentioned in the condonation petition are reasonable and accordingly condone the delay and admit the appeal. Since the Ld CIT(A) has passed the ex-parte order without providing ample opportunity of hearing to the assessee and the assessee has to file evidences as envisaged by the LdAR. We Considering the principles of natural justice shall provide one more opportunity to the assessee to substantiate its case before the CIT(A) with evidences. The assessee should be provided adequate opportunity of hearing and shall cooperate in submitting the information for early disposal of the appeal and allow the grounds of appeal of the assessee for statistical purposes.

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4. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 03.12.2020

Sd/-

(PRAMOD KUMAR)
VICE PRESIDENT

Sd/-

(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Mumbai, Dated 03/12/2020

KRK, PS

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

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

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

1.

उप/सहायक पंजीकार (Asst. Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Mumbai