

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCHES "SMC", MUMBAI**

**BEFORE SHRI SAKTIJIT DEY (JM)**

**ITA No. 3873/MUM/2019  
Assessment Year: 2012-13**

Smt. Farah Farooq Shaikh, 220/224, M.L. Wadi, Dharavi Main Road, Mahim (E), Mumbai - 400017 PAN: BARPS8799A	<b>Vs.</b>	Income Tax Officer, Ward-21(1)(5)
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by : None

Revenue by : Smita Verma (DR)

Date of Hearing: 15/06/2021

Date of Pronouncement: 25/06/2021

**ORDER**

**PER SAKTIJIT DEY, JM**

This is an appeal by the assessee against order dated 26.03.2019 of learned Commissioner of Income Tax (Appeals) 48, Mumbai for the assessment year 2012-13.

2. In ground No. 2, the assessee has challenged the ex-parte disposal of the appeal by learned Commissioner (Appeals) without granting proper opportunity of being heard.

3. Briefly the facts are, the assessee is an individual engaged in manufacturing of boxes. For the assessment year under dispute, the assessee filed her return of income on 29.09.2012 declaring total income of Rs. 6,66,080/-. Assessment in case of the assessee was completed under section 143(3) of the Act determining the total income at Rs. 12,88,397/- after making the following additions:

1. Deemed rent received : Rs. 34,300/-

2. Sundry Creditors : Rs. 1,07,348/-
3. Cash Deposits : Rs. 4,73,900/-.

4. Against the assessment order so passed, the assessee preferred an appeal before learned Commissioner (Appeals). However, by the impugned order, learned Commissioner (Appeals) has confirmed the additions made by the AO while dismissing the appeal.

5. When the appeal was called for hearing, no one was present on behalf of the assessee to the represent the case. However, considering the nature of dispute, I proceed to dispose of the appeal ex-parte qua the assessee after hearing the learned Departmental Representative and based on material on record.

6. I have considered the submissions of learned Departmental Representative and perused materials on record. It is evident, learned Commissioner (Appeals) has decided the appeal ex-parte. Though, in the body of the impugned appellate order, learned Commissioner (Appeals) has mentioned about the various dates on which the appeal was fixed for hearing, however, it is noticed that on many instances the hearing notices returned back un-served. The last notice issued by learned Commissioner (Appeals) fixing the date of hearing on 25.03.2019, though, was served on the assessee, however, the assessee sought adjournment. It is evident, rejecting assessee's request for adjournment, learned Commissioner (Appeals) has proceeded to dispose of the appeal ex-parte. While doing so, learned Commissioner (Appeals) has more or less dismissed the appeal for non-prosecution, rather than deciding the issues on merits. Though, in paragraph 4.4 of the appellate order, learned Commissioner (Appeals) has made a passing observation regarding the merits of the issues, however, he has not passed a reasoned or speaking order on the issues raised. Thus, in my view, the impugned order of learned Commissioner (Appeals) deserves to be set aside. Accordingly, I do so. Learned Commissioner (Appeals) is directed decide the appeal afresh after due and reasonable opportunity of being heard to the assessee. In case, the assessee is

still recalcitrant and does not respond to the notice to be issued, learned Commissioner (Appeals) would be at liberty to dispose of the appeal in absence of the assessee based on materials' on record. However, learned Commissioner (Appeals) must pass a well-reasoned and speaking order dealing with all the issues raised by the assessee. Grounds are allowed for statistical purposes.

6. In the result, appeal is allowed for statistical purposes.

Order pronounced in the open court on 25<sup>th</sup> June, 2021.

Sd/-  
(SAKTIJIT DEY)  
JUDICIAL MEMBER

मुंबई Mumbai; दिनांक Dated: 25/06/2021

Alindra, PS

**आदेश 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.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)  
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai