

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

**BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER AND
SHRI RAJESH KUMAR, ACCOUNTANT MEMBER**

**ITA No.7691/M/2019
Assessment Year: 2013-14**

M/s. Shimnit Utsch India Pvt. Ltd., 8 th Floor, Regent Chambers, Nariman Point, Mumbai - 400021 PAN: AAFCS3812A	Vs.	DCIT 3(3)(1), Room No.609, 6 th Floor, Aayakar Bhavan, M.K. Road, Mumbai - 400020
(Appellant)		(Respondent)

Present for:

Assessee by : None
Revenue by : Shri Vijay Kumar Menon, D.R.

Date of Hearing : 21.06.2021
Date of Pronouncement : 21.06.2021

ORDER

Per Rajesh Kumar, Accountant Member:

The present appeal has been preferred by the assessee against the order dated 14.09.2019 of the Commissioner of Income Tax (Appeals) [hereinafter referred to as the CIT(A)] relevant to assessment year 2013-14.

2. The only issue raised in the various grounds of appeal is against the confirmation of penalty of Rs.41,92,084/- by Ld. CIT(A) as levied by the AO under section 271(1)(c) of the Act.

3. At the time of hearing when the case was called up for hearing neither assessee nor his authorised representative was present to attend the hearing nor any application for

adjournment was filed. Therefore, we are deciding the issue after hearing the Ld. D.R.

4. After hearing the Ld. D.R. and perusing the material on record including the impugned appellate order, we observe that the Ld. CIT(A) decided the issue ex-parte and thus dismissed the appeal of the assessee. Though none appeared on behalf of the assessee even before the Ld. CIT(A) despite allowing three opportunities on 07.03.2018, 06.08.2018 and 11.09.2018. Finally, a show cause notice was issued fixing the date of hearing on 22.08.2019 which also went unattended and finally the Ld. CIT(A) passed the ex-parte order. A perusal of the first appellate order revealed that Ld. CIT(A) has passed this order in a cryptic and non speaking manner. In view of these facts, we are of the view that this appeal needs to be restored to the file of the Ld. CIT(A) with the direction to pass a speaking order. Needless to say that before passing the order, the assessee is to be granted a reasonable opportunity of hearing. Accordingly, we restore the matter back to the file of the Ld. CIT(A).

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

Order pronounced in the open court on 21.06.2021.

**Sd/-
(Saktijit Dey)
JUDICIAL MEMBER**

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

Mumbai, Dated: 21.06.2021.

* 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.