

आयकर अपीलीय अधिकरण
मुंबई पीठ "एस एम सी", मुंबई
श्री प्रमोद कुमार, उपाध्यक्ष एवं
श्री विकास अवस्थी, न्यायिक सदस्य के समक्ष
IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "SMC", MUMBAI
BEFORE SHRI PRAMOD KUMAR, VICE-PRESIDENT &
SHRI VIKAS AWASTHY, JUDICIAL MEMBER
आअसं. 1277/मुं/2020 (नि. व.2010-11)
ITA NO.1277/MUM/2020(A.Y. 2010-11)

Cerebral Education Private Limited.

B-1005, Station Plaza Building,
Station Road, Bhandup (West),
Mumbai 400 070

PAN: AADCC-3036-A

..... अपीलार्थी /Appellant

बनाम Vs.

Income Tax Officer 14(1)(3),
Room No.458, 4th Floor,
Aaykar Bhavan, M.K.Road,
Mumbai – 400 020

..... प्रतिवादी/Respondent

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अपीलार्थी द्वारा/ Appellant by : None

प्रतिवादी द्वारा/Respondent by : Ms. Smita Verma

सुनवाई की तिथि/ Date of hearing : 09/09/2021

घोषणा की तिथि/ Date of pronouncement : 20/09/2021

आदेश/ ORDER

PER VIKAS AWASTHY, JM:

This appeal by the assessee is directed against an ex-parte order of Commissioner of Income Tax (Appeals) -22, Mumbai [in short 'the CIT(A)] dated 30/10/2019 for the assessment year 2010-11.

2. A perusal of assessment order reveals that the assessee has never appeared before the Assessing Officer, therefore, the Assessing Officer was constrained to frame assessment under section 144(1) of the Income Tax Act, 1961 (in short 'the Act'). The Assessing Officer made addition of Rs.10,00,000/- under section 68 of the Act. In First Appellate proceedings, the CIT(A) in absence of any contrary material confirmed the addition made by the Assessing Officer.

3. The assessee in appeal before the Tribunal has inter-alia assailed the order passed by CIT(A) in ex-parte proceedings. A perusal of the statement of facts filed along with grounds of appeal reveal that the assessee had requested for adjournment, however, the CIT(A) did not consider the same. The CIT(A) in Para- 3.5 of the impugned order has given chronology of the dates of hearing. The CIT(A) had given three opportunities to the assessee, i.e. on 01/04/2019, 23/07/2019 and 25/10/2019. On none of the aforesaid dates the assessee attended the hearing. The conduct of assessee before the authorities below is not desirable. However, keeping in view the principles of natural justice, we deem it appropriate to restore this appeal to the file of CIT(A) for deciding the issues raised in appeal by the assessee afresh, after affording reasonable opportunity of hearing to the assessee, in accordance with law..

4. The assessee is directed to co-operate and appear before the CIT(A) on service of notice. The assessee should desist from seeking adjournment on any frivolous/flimsy grounds.

5. The impugned order is quashed and the appeal by assessee is allowed for statistical purpose in the terms aforesaid.

Order pronounced in the open court on Monday the 20th day of September, 2021.

Sd/-

(PRAMOD KUMAR)

उपाध्यक्ष/VICE PRESIDENT

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

मुंबई/ Mumbai, दिनांक/Dated 20/09/2021

Vm, Sr. PS(O/S)

प्रतिलिपि अग्रेषित**Copy of the Order forwarded to :**

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त(अ)/ The CIT(A)-
4. आयकर आयुक्त CIT
5. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT, Mumbai
6. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar)

ITAT, Mumbai