

आयकर अपीलीय अधिकरण “SMC” न्यायपीठ मुंबई में।

IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH, MUMBAI

श्री महावीर सिंह, उपाध्यक्ष के समक्ष ।

BEFORE SRI MAHAVIR SINGH, VICE PRESIDENT

आयकर अपील सं./ ITA No. 114/Mum/2020

(निर्धारण वर्ष / Assessment Year 2011-12)

Mrs. Sunita Amit Patanwala 31/33, Jaipragraj Bldg, 80/82, Issaji Street masjid West, Mumbai-400 003	Vs.	The Income Tax Officer Ward-19(3)(4) Mumbai-400 007
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)
स्थायी लेखा सं./PAN No. AADPP7555N		

अपीलार्थी की ओर से / Appellant by	:	Shri Milind Sheth/ Devan Patil, ARs'
प्रत्यर्थी की ओर से / Respondent by	:	Smt. Smita Verma, DR

सुनवाई की तारीख / Date of hearing:	29.09.2021
घोषणा की तारीख / Date of pronouncement :	29.09.2021

आदेश / ORDER

महावीर सिंह, उपाध्यक्ष के द्वारा /
PER MAHAVIR SINGH, VP:

This appeal of the assessee is arising out of order of the Commissioner of Income Tax (Appeals)]-6, Mumbai [in short CIT(A)], in Appeal No. CIT(A)-6/IT-12/4/15/2017-18, vide dated 06.11.2019. The Assessment was framed by the Income Tax Officer, Ward 19(3)(4), Mumbai (in short ITO/ AO) for the A.Y. 2010-11 vide order dated 29.12.2016 under section 143(3) of the Income-tax Act, 1961 (hereinafter 'the Act').

2. At the outset, it is noticed that the assessee has requested for adjournment for few days. The assessee has filed an adjournment petition along with original letter of authority. As seen the order of CIT(A) which is an ex-parte order and noted



in Para 4 page 2 of the CIT(A)'s order that he has decided the issue on non-compliance of the notices of the assessee. The CIT(A) has decided the issue based on material available on record. I also noticed that even the order of Assessing Officer is passed under section 144 read with section 147 of the Act that means none was present before Assessing Officer also.

3. In view of the above facts, when a query was put to the learned Sr. Departmental Representative, she fairly agreed that the matter can be restored back to the file of CIT(A) for allowing one more opportunity subject to cost of ₹10,000/-. Hence, I set aside the order of CIT(A) and restore the matter back to the file of CIT(A) subject to a payment of ₹10,000/- to the Legal Aid Authority constituted by Bombay High Court and it is addressed in the premises of Hon'ble Bombay High Court. The assessee will produce the receipt of payment of this cost before CIT(A) and CIT(A) will decide accordingly.

4. The appeal of assessee is allowed for statistical purposes.

Order pronounced in the open court on 29.09.2021.

Sd/-
(महावीर सिंह /MAHAVIR SINGH)
(उपाध्यक्ष / VICE PRESIDENT)

मुंबई, दिनांक/ Mumbai, Dated: 29.09.2021

सुदीप सरकार, व.निजी सचिव / Sudip Sarkar, Sr.PS



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 (Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai