

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

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

**ITA No. 1509/MUM/2020
Assessment Year: 2015-16**

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|---|------------|---|
| Mr. Rajendrakumar H. Aneja, 301, Peninsula Towers, G.K. Marg, Lower Parel (West), Mumbai - 400013 PAN: AFQPA4141P | Vs. | ACIT Circle 21(3), Room No. 209, 2 nd Floor, Piramal Chambers, Lalbaug, Mumbai - 400012 |
| (Appellant) | | (Respondent) |

Assessee by : Shri Mandar Vaidya (AR)

Revenue by : Shri Bharat Andhle (DR)

Date of Hearing : 22/09/2021

Date of Pronouncement: 29/09/2021

ORDER

PER SAKTIJIT DEY, JM

This is an appeal by the revenue against order dated 22.01.2020 of learned Commissioner of Income Tax (Appeals)-33, Mumbai for the assessment year 2015-16.

2. Briefly the facts are, the assessee is an individual. For the assessment year under dispute, assessee filed his return of income on 13.09.2015 declaring total income of Rs. 52,59,340/-, while completing the assessment under section 143(3) of the Income Tax Act, 1961, the Assessing Officer (AO) disallowed certain expenses claimed by the assessee resulting in determination of total income at Rs.1,59,45,660/-. Against the assessment order so passed,

assessee preferred an appeal before learned Commissioner (Appeals). However, by the impugned order, the appeal was dismissed.

3. Before us, learned counsel for the assessee submitted that there is gross violation of rules natural justice by learned First Appellate Authority, as he dispose of assessee's appeal without affording reasonable opportunity of being heard. Thus, he submitted, the appeal may be restored back to learned Commissioner (Appeals) for fresh adjudication. Though, learned Departmental Representative submitted that adequate opportunity was granted to the assessee, however, he ultimately submitted that the matter may be restored back to the First Appellate Authority.

4. Having considered rival submissions and perused the materials on record, we find that assessee's appeal was posted for hearing before learned Commissioner (Appeals) on 08.01.2020. As submitted before us by learned counsel for the assessee, on 08.01.2020, there was a call for Bharat Bandh. As a result, the assessee could not appear in the hearing before learned Commissioner (Appeals) and the appeal was disposed of without granting further opportunity to the assessee. Upon due consideration of the relevant facts and materials on record, we are of the considered view that the interest of justice would be best served if a fair opportunity is granted to the assessee to establish its claim of various deductions with supporting evidences before learned Commissioner (Appeals). Accordingly, we set aside the impugned order of learned Commissioner (Appeals) and restore all the issues back to his file for *de novo* adjudication after due and proper opportunity of being heard to the assessee. The assessee is also directed to make proper representation before

learned Commissioner (Appeals) and cooperate in finalizing the proceedings.
Grounds are allowed for statistical purposes.

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

Order pronounced in the open court on 29th September, 2021.

Sd/-
(RAJESH KUMAR)
ACCOUNTANT MEMBER

Sd/-
(SAKTIJIT DEY)
JUDICIAL MEMBER

मुंबई Mumbai; दिनांक Dated: 29/09/2021

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.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

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