

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

Before Shri Mahavir Singh, Vice-President

ITA No.1167/Mum/2020
Assessment Year : 2010-11

Vestaar Infra-Con India P. Ltd., 209, Exim Link, Opp. Container Yard, Goregaon, Mulund Link Road, Mumbai 400 078. PAN : AADCV0093J	Vs	ITO 15(3)(2), Mumbai.
(Appellant)		(Respondent)

Appellant By : Shri Kumar Kale
Respondent By : Shri Vaibhav Jain

Date of Hearing :26.10.2021

Date of Pronouncement : 26.10.2021

ORDER

This appeal by assessee is arising out of the order of the CIT(A) – 24, Mumbai, in appeal No.CIT(A)-24/ITO-15(3)(2)/IT-202/2017-18, dated 09.12.2019. The assessment was framed by the ITO 15(3)(2), Mumbai, for A.Y. 2010-11, vide his order dated 30.10.2017, u/s. 144 r.w.s. 147 of the Income tax Act, 1961 (hereinafter referred to as "the Act").

2. At the outset, the learned counsel for the assessee drew my attention to the first ground, which reads as under:-

3. Further, the learned counsel for the assessee drew my attention to the exparte order of the CIT(A), wherein the appeal was dismissed in defunct for non-appearance of the assessee. When this was put forth to the learned senior DR, he could not controvert the above factual situation.

4. After hearing both the sides, I am of the view that unless a statute authorizes a quasi-judicial authority to dismiss the appeal for default expressly or by inevitable implications, the appellate authority has to decide the appeal on merits and not to dismiss it for default, what has been done by the CIT(A) in the present case. Hence, I have no alternative except remand the matter back to the file of the CIT(A) for adjudication afresh and decide the appeal on merits. Needless to say, the CIT(A) shall provide reasonable opportunity of being heard to the assessee.

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

Order pronounced in the open court on 26th October 2021.

Sd/-
(Mahavir Singh)
VICE - PRESIDENT

Mumbai, Dated : 26th October, 2021.

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Copy of the Order forwarded to :

1. The Appellant.
2. The Respondent.
3. The CIT(A), Mumbai.
4. The CIT
5. The DR, 'SMC' Bench, ITAT, Mumbai

BY ORDER

//True Copy//

(Sr. Private Secretary/Assistant Registrar)
Income Tax Appellate Tribunal, Mumbai