

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. 1572/Mum/2019
(निर्धारण वर्ष / Assessment Year 2010-11)

Mandalia Overseas Corporation 4 th Floor, 212/216 Rang Mahal, 5/7 Samuel Street, Masjid Bunder Mumbai-400 003	Vs.	The Income Tax Officer- 17(2)(3) Room No.123B, Aaykar Bhawan M.K.Road, Mumbai-400 020
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)
स्थायी लेखा सं. / PAN No. AAAPM1863F		

अपीलार्थी की ओर से / Appellant by	:	Shri Sumit Sheth, AR
प्रत्यर्थी की ओर से / Respondent by	:	Shri Vivek Perampurna, DR

सुनवाई की तारीख / Date of hearing:	27.10.2021
घोषणा की तारीख / Date of pronouncement :	27.10.2021

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)-57, Mumbai [in short CIT(A)], in appeal No. CIT(A)-57/Arr508/2018-19 vide dated 28.01.2019. The Assessment was framed by the Income Tax Officer, Ward-17(2)(3) Mumbai (in short ITO/ AO) for the A.Y. 2010-11 vide order dated 28.12.2016 under section 143(3) of the Income-tax Act, 1961 (hereinafter 'the Act').

2. At the outset, Ld. Counsel for the assessee took me through the order of Ld.CIT(A) read out the findings of Ld.CIT(A) which is given in para 7 of on merits which reads as under:-

" 7. During the course of assessment of the Appellant asked AO to give proof or any other evidence in regards to its involvement in



Client Code Modified by the broker vide letter dt. 27.12.2016. Copy of the same is attached as given any evidence in this regards and made addition of Rs. 9,01,680/- based on information received from Pr.DIT(Inv.) Ahmedabad." The SEBI's guidelines. In the light of the above discussion I find that Assessing Officer has rightly disallowed the losses claim by the assessee. Hence, ground NO. 1 to 3 is dismissed."

3. The Ld. Counsel for the assessee also drew my attention to the decision of ground No. 4 to 6, which is jurisdictional issue and the relevant decision reads as under:-

"The appellant vide ground NO.4 to 6 has raised the issue of notice u/s. 148 as bad n law. The appellants submission which an incorporated in above paras have been perused by me. I find that the Assessing Officer has rightly reopened the case u/s. 148. From the perusal of reasons recorded it is been that the assessing officer received the information from the officer of Pr.DIT Investigation Ahmedabad. On the basis of information the Assessing officer formed an opinion and the Assessing Officer with due application of mind had reason to believe that income has escaped assessment. Hence in my onion the action of the Assessing Officer cannot be faulted. Hence the grounds raised by appellant is dismissed."

4. The Ld. Counsel stated that the order of Ld.CIT(A) is totally non speaking and no discussion at all in the order despite the fact that the complete details were filed before Ld.CIT(A). When these facts were confronted to Ld. Sr.DR, he could not controvert the above. Even now before me, Ld. Counsel for the assessee filed copy of submissions filed before Ld.CIT(A) and also the details in regard to additions as well as reopening, but since the Ld.CIT(A) has not adjudicated the issues by a speaking order , I cannot gather the evidences. In such a situation, I have no option to except to set aside the order of Ld.CIT(A) and remand the matter back to his file for fresh adjudication for passing a speaking order. Hence, the matter is remanded back to the file of the Ld.CIT(A), who will pass order after allowing reasonable opportunities of being heard to the assessee and by passing a speaking order.



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5. In the Result, the appeal of assessee is allowed for statistical purpose.

Order pronounced in the open court on 27.10.2021.

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

मुंबई, दिनांक/ Mumbai, Dated: 27 .10.2021
Kasarla Thirumalesh, 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 (Asth. Registrar)/ व.निजी सचिव
(Sr.PS)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai