

आयकर अपीलीय अधिकरण न्यायपीठ नागपूर में ।  
IN THE INCOME TAX APPELLATE TRIBUNAL, NAGPUR

(Through Virtual Court)

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER  
AND  
SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.93/NAG/2017

निर्धारण वर्ष / Assessment Year : 2008-09

M/s. Diamant Infrastructure Limited,  
Block No. B, Gotmare Complex,  
Dharampeth, Nagpur – 440010

PAN : AAACD2168B

.....अपीलार्थी / Appellant

**बनाम / V/s.**

Dy. Commissioner of Income Tax,  
Central Circle – 2(2), Mumbai

.....प्रत्यर्थी / Respondent

Assessee by : N O N E  
Revenue by : Shri Vitthal Bhosale

सुनवाई की तारीख / Date of Hearing : 12-11-2021

घोषणा की तारीख / Date of Pronouncement : 15-11-2021

**आदेश / ORDER**

**PER S.S. VISWANETHRA RAVI, JM :**

This appeal by the assessee against the order dated 30-12-2016 passed by the Commissioner of Income Tax (Appeals)-48, Mumbai [‘CIT(A)’] for assessment year 2008-09.

2. At the time of hearing there was no appearance from the assessee nor through his representative and we observe that the order passed by the CIT(A) is an ex-parte order and liabilities of the assessee were not adjudicated upon. The ld. CIT(A) dismissed the appeal of the assessee on the ground of non-prosecution. We proceed with the case after hearing the submissions of ld. DR wherein it is evident that neither the assessee nor its authorized representative attended and filed the details evidences in support of appeal on merits. Therefore, the ld. DR vehemently opposed the prayer of providing any further opportunity to the assessee for representing his case on merits before the First Appellate Authority.

3. We have perused the case records and heard the ld. DR. We find that the ld. CIT(A) dismissed the appeal of the assessee on the ground of non prosecution. It is, therefore, clear that rights and liabilities of the parties were not adjudicated upon on merits and we are of the considered view that one final opportunity needs to be given to the assessee to represent his case on merits so that justice can be delivered.

4. In view of the matter, we set aside the order of ld. CIT(A) and restore the matter back to his file for fresh adjudication after providing sufficient opportunity of hearing to the assessee. At the same time, we direct the assessee to present himself before the ld. CIT(A) with relevant documentary evidences to represent his case on merits. Any service of notice is dispensable.

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

Order pronounced in the open court on 15<sup>th</sup> November, 2021.

Sd/-  
(Inturi Rama Rao)  
ACCOUNTANT MEMBER

Sd/-  
(S.S. Viswanethra Ravi)  
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 15<sup>th</sup> November, 2021.

RK

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-48, Mumbai
4. The Pr. CIT, Central-1, Mumbai
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, नागपूर,  
/ DR, ITAT, Nagpur.
6. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

निजी सचिव / Private Secretary,  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune