

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "SMC", MUMBAI**

BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT

ITA NO. 78/MUM/2021 : A.Y : 2014-15

Amit Madan
101, Balaji Darshan, Plot No. 113 &
114, Sector 18A, Nerul,
Navi Mumbai 400 706.
PAN : ACCPM3983A (Appellant)

Vs. Income Tax Officer – 28(1)(1),
Mumbai. (Respondent)

Appellant by : None
Respondent by : Shri Vaibhav Jain

Date of Hearing : 28/10/2021
Date of Pronouncement : 05/11/2021

ORDER

This appeal by the assessee is arising out of the order of Commissioner of Income Tax (Appeals)-26, Mumbai (in short 'CIT(A)') in Appeal No. CIT(A)-26/IT-10620/2016-17 dated 25.09.2019. The assessment was framed by Income Tax Officer – 28(1)(1), Mumbai for Assessment Year 2014-15 vide his order dated 29.12.2016 under Section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act').

2. At the outset, it is noticed from the appeal order of CIT(A) that the same is *ex parte* and non-speaking order. The findings recorded by the CIT(A) in paragraph 5 of his order reads as under :-

“5. During the course of appellate proceedings, the appellant has not complied to any of the notices as stated above nor any submissions were made. Hence it can be inferred that the assessee has nothing to say in support of the grounds of appeal. The ground of appeal filed by the appellant are general in nature and no specific ground has been raised. Statement of facts filed with Form No. 35 also does not help the appellant. Therefore, in view of these facts of the case, I have no reason to deviate from the order of the AO. Hence, the addition of Rs.27,07,500/- u/s. 68 of the Act made by the Assessing Officer for AY 2014-15 is confirmed. The appellant’s grounds of appeal are ‘Dismissed’.”

When these findings were confronted to the learned Sr. DR, he could not controvert that the order of CIT(A) is non-speaking order.

3. None is present from assessee’s side. However, by perusing the order of CIT(A), which is a non-speaking order, I decide this appeal. As the order of CIT(A) is a non-speaking order, I set-aside the order of CIT(A) and remand the matter back to his file for allowing reasonable opportunity to the assessee of being heard and thereafter pass a speaking order.

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

Order pronounced in the open court on 5th November, 2021.

Sd/-
(MAHAVIR SINGH)
VICE PRESIDENT

Mumbai, Date : 5th November, 2021

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Copy to .:

- 1) The Appellant
- 2) The Respondent
- 3) The CIT(A) concerned
- 4) The CIT concerned
- 5) The D.R, "SMC" Bench, Mumbai
- 6) Guard file

By Order

Dy./Asstt. Registrar/Sr. PS
I.T.A.T, Mumbai