

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

BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT

ITA NO. 88/MUM/2021

:

A.Y : 2009-10

Rakesh Jabarmal Jain
C/o. D.C. Bothra & Co. LLP (CA)
(Formerly known as D.C. Bothra & Co.)
297, Tardeo Road, Wille Mansion, 1st
floor, Opp. Bank of India,
Nana Chowk, Mumbai 400 004.
PAN : ACWPJ1412F (Appellant)

Vs. Income Tax Officer – 19(3)(1),
Mumbai. (Respondent)

Appellant by : Shri Rajkumar Singh

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)-30, Mumbai (in short 'CIT(A)') in Appeal No. CIT(A)-30/19(3)(1)/10390/2019-20 dated 25.11.2019. The assessment was framed by Income Tax Officer – 15(2)(2), Mumbai for Assessment Year 2009-10 vide his order dated 26.12.2011 under Section 143(3) 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 order of CIT(A) and the relevant order of CIT(A) reads as under :-

“This appeal was reflected in the pendency of CIT(A) – 30 in ITBA as appeal No. 10390/19-20 for A.Y. 2009-10.

2. Notices were issued on ITBA on 18.10.2019 and 14.11.2019 to afford opportunity of hearing to the appellant. There was no compliance by appellant.

3. No grounds of appeal are available. The appeal is dismissed as the same cannot be adjudicated without Grounds of Appeal and also for non-prosecution of appeal.

4. In the result, for statistical purposes, appeal filed for A.Y. 2009-10 is treated as Dismissed.”

When this was confronted to the learned Sr. DR, he could not argue anything. He only requested that the matter can be restored back to the file of the CIT(A).

3. After hearing both the sides, I set aside the order of CIT(A) and restore the matter back to his file for fresh adjudication. Needless to say, in case the CIT(A) has no grounds of appeal, assessee has to file the grounds. However, the grounds are before the Tribunal i.e. in Form no. 35. Hence, the order of CIT(A) is set aside and the matter remanded back to his file for fresh adjudication.

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

SSL

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