

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

**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT**

**ITA NO. 1451/MUM/2020 : A.Y : 2009-10**

Harish Babulal Chandan  
C/o. D.C. Bothra & Co. LLP  
297, Tardeo Road, Wille Mansion,  
1<sup>st</sup> floor, Opp. Bank of India,  
Nana Chowk, Mumbai 400 004.  
**PAN : AEDPC9205J** (Appellant)

Vs. Income Tax Officer – 19(1)(5),  
Mumbai. (Respondent)

**Appellant by : Shri Rajkumar Singh**  
**Respondent by : Shri Vivek Perampurna**

**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(1)(5)/11443/2015-16 dated 06.12.2019. The assessment was framed by Income Tax Officer – 19(1)(5), Mumbai for Assessment Year 2009-10 vide his order dated 14.03.2015 under Section 143(3) 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 stated that the CIT(A) has passed an *ex parte* order and also issued notice of enhancement under Section 251(1)(a) of the Act on the last date of hearing, i.e. 21.11.2019.

According to the learned counsel, the CIT(A) decided the appeal *ex parte* without allowing reasonable opportunity of being heard to the assessee. When these facts were confronted to the learned Sr. DR, he stated that the matter can be restored back to the file of the CIT(A).

3. After hearing both the sides and going through the facts and circumstances of the case, I noticed that the CIT(A) has decided the appeal *ex parte*. Even though numerous opportunities were given to the assessee, but as regards the enhancement notice, which was issued on 21.11.2019, it seems that assessee was not allowed reasonable opportunity of being heard as the appeal was decided on 06.12.2019. Hence, I set aside the order of CIT(A) and remand the matter back to his file for afresh adjudication including the enhancement of income.

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

Order pronounced in the open court on 5<sup>th</sup> November, 2021.

Sd/-  
(MAHAVIR SINGH)  
VICE PRESIDENT

Mumbai, Date : 5<sup>th</sup> 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