

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

BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT

ITA NO. 1314/MUM/2020 : A.Y : 2014-15

M/s. Shree Momai Krupa Jewellers Vs. Asstt. Commissioner of Income
C-Wing, Gala No. 219, Akurli Industrial Tax – 32(3), Mumbai.
Estate, Akurli Road, Kandivali (E), (Respondent)
Mumbai 400 101.
PAN : ABQFS7376G (Appellant)

Appellant by : Ms. Laxmi Thakur
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)-45, Mumbai (in short 'CIT(A)') in Appeal No. CIT(A)-45/ACIT-32(3)/ITA-56/2017-18 dated 03.05.2019. The assessment was framed by Asstt. Commissioner of Income Tax – 32(3), Mumbai for Assessment Year 2014-15 vide his order dated 07.12.2016 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 fairly stated that the CIT(A) has dismissed the appeal for non-prosecution and that the order is passed *ex parte* based on merits. The learned counsel stated that no opportunity of being heard was provided by the CIT(A) and hence, she

requested that the matter be restored back to the file of CIT(A) for allowing reasonable opportunity of being heard to the assessee so that the appeal before CIT(A) can be represented properly. To this proposition, the learned Sr. DR has not raised any objection.

3. After hearing both the sides and going through the order of the CIT(A), it is noticed that no doubt the CIT(A) has issued notices three times, but the assessee could not attend. It seems that the CIT(A) dismissed the appeal of assessee for non-prosecution and even the issue was decided on merits after considering the records. It seems that the CIT(A) has not allowed reasonable opportunity of being heard to the assessee. Hence, I set aside the order of CIT(A) and remand the matter back to his file for afresh adjudication. Needless to say, CIT(A) will allow reasonable opportunity of being heard to the assessee. The assessee is also directed to represent the case as and when it is fixed.

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