

आयकर अपीलिय अधिकरण  
मुंबई पीठ "एच" मुंबई  
श्री विकास अवस्थी, न्यायिक सदस्य एवं  
श्री एम. बालागनेश, लेखा सदस्य के समक्ष  
IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "H", MUMBAI  
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &  
SHRI M.BALAGANESH, ACCOUNTANT MEMBER  
आसं. 194/मुं/2021 (नि. व. 2013-14)  
ITA No. 194/MUM/2021 (A.Y.2013-14)

Harish Jain,  
C-1801, Gundecha Gardens,  
Lalbaug, Mumbai-400012.

**PAN: AAAPJ7613G**

..... अपीलार्थी /Appellant

**बनाम Vs.**

DCIT, Circle-2(4),  
802, Old CGO Building,  
Mumbai-400020.

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/ Appellant by : Sh. Vijay Mehta  
प्रतिवादी द्वारा/Respondent by : Sh. Azhar Zain

सुनवाई की तिथि/ Date of hearing : 03/02/2022  
घोषणा की तिथि/ Date of pronouncement : 03/02/2022

आदेश/ ORDER

**PER VIKAS AWASTHY, JM:**

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals)-48, Mumbai [hereinafter referred to as 'the CIT(A)'] dated 19.03.2020 for Assessment Year (AY) 2013-14.

2. Sh. Vijay Mehta appearing on behalf of the assessee submitted at the outset that while adjudicating appeal of the assessee, the CIT(A) has not

afforded proper opportunity of hearing. Admittedly, written submissions made by the assessee dated 21.09.2017 filed before previous incumbent were referred to in the order but no opportunity of hearing was allowed to the assessee before passing the impugned order. The Id. AR pointed that notice of hearing of appeal was issued to the assessee in August 2017. In response to said notice the assessee filed written submission on 21.09.2017, thereafter, there was change in incumbent CIT(A). The new incumbent passed the order after two and a half years of furnishing written submission without affording opportunity of hearing. The Id. Authorized Representative (AR) in order to substantiate his contentions referred to the notice issued by CIT(A) dated 31.08.2017 at page no.1 of the Paper Book (PB). The Id. AR pointed that the said notice was issued by Ms Vidisha Kalra, CIT(A), Mumbai-48, whereas, the impugned order was passed by Sh. Pratap Singh, CIT(A) after almost two and a half years after filing of the submissions.

3. On the other hand, Sh. Azhar Zain representing the Department vehemently defended the impugned order. The Id. Departmental Representative (DR) submitted that the CIT(A) has passed the order after considering the submissions of the assessee, therefore, no prejudice is caused to the assessee.

4. We have heard the submissions made by rival sides. A perusal of the impugned order shows that the assessee had furnished written submissions before the CIT(A) on 21.09.2017. Thereafter, no notice of hearing was issued to the assessee. The fact of any notice of hearing is neither borne out from the impugned order nor has the revenue placed on record any document to show that indeed an opportunity of hearing was afforded to the assessee. Further, we note that in 2017 when the assessee had furnished written submissions

some other incumbent was holding the charge of CIT(A), Mumbai-48, whereas, the order has been passed by the successor of the incumbent who had issued the notices.

5. Taking into consideration entirety of fact, and without commenting on merit of issue raised in grounds of appeal, we deem it appropriate to restore this appeal back to the file of CIT(A) for deciding the appeal afresh after affording reasonable opportunity of hearing to the assessee, in accordance with law.

6. Consequently, the impugned order is set-aside and the appeal of assessee is allowed for statistical purpose, in the terms aforesaid.

Order pronounced in the open court on **Thursday**, the **3<sup>rd</sup>** day of February, 2022.

Sd/-

(M. BALAGANESH)

लेखा सदस्य/ACCOUNTANT MEMBER

मुंबई/ Mumbai, दिनांक/Dated: 03/02/2022

S.K., Sr. PS

**प्रतिलिपि अग्रेषित Copy of the Order forwarded to :**

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त (अ) / The CIT(A)-
4. आयकर आयुक्त CIT
5. विभागीय प्रतिनिधि, आय.अपी.अधि. , मुंबई/DR, ITAT,  
Mumbai
6. गार्ड फाइल/Guard file.

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar)

**ITAT, Mumbai**