

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

**BEFORE SHRI G.S. PANNU, ACCOUNTANT MEMBER AND
SHRI AMARJIT SINGH, JUDICIAL MEMBER**

ITA NO. 5454/MUM/2015 : (A.Y : 2005-06)

M/s. Loha Ispat Ltd.,
Village : Ransai Khopoli, Pen Road,
Taluka – Khalapur, Dist : Raigad,
Maharashtra 410 203 (Appellant)
PAN : AAACL1583C

Vs. DCIT, Central Circle-43,
Mumbai (Respondent)

Assessee by : None
Revenue by : Shri Deepak Ripote

Date of Hearing : 20/07/2016

Date of Pronouncement : 12/08/2016

ORDER

PER G.S. PANNU, AM :

The captioned appeal by the assessee is directed against the order of CIT(A)-48, Mumbai dated 12.08.2015, pertaining to the Assessment Year 2005-06, which in turn has arisen from the order passed by the Assessing Officer dated 30.03.2013 under section 143(3) r.w.s 147 of the Income Tax Act, 1961 (in short 'the Act').

2. In spite of service of notice, none appeared on behalf of the assessee at the time of hearing, therefore, we proceed to decide the

appeal *ex parte qua* the assessee after hearing the Ld. DR on merit in terms of Rule 24 of the Appellate Tribunal Rules, 1963.

3. In this appeal, the first and the foremost plea of the assessee is that the CIT(A) erred in disposing the appeal of the assessee *ex parte* without deciding on merits of the grounds raised before him.

4. In brief, the relevant facts are that assessee is a company whose total income was assessed at Rs.1,34,04,746/- in an order passed u/s 143(3) r.w.s. 147 of the Act dated 27.08.2009. Subsequently, a search action was carried out on 23.02.2012 consequent to which an assessment was finalised u/s 143(3) r.w.s. 147 of the Act dated 30.03.2013, whereby the income was assessed at Rs.3,36,66,470/- after making various additions and disallowances. The assessee challenged the various additions made in the assessment order passed u/s 143(3) r.w.s. 147 of the Act before the CIT(A), who has dismissed the appeal without going into the merits of the case as according to him assessee was not interested in pursuing the appeal because nobody appeared on behalf of the assessee inspite of issuance of notice of hearing.

5. At the time of hearing, it was pointed out to the Ld. DR that the CIT(A) has dismissed the appeal without deciding on merits the grounds raised before him, which is unsustainable. It was therefore pointed out that the matter deserves to be revisited by the CIT(A) as per law.

6. Having considered the impugned order and the submissions of the Ld. DR, we find that in the present case the appeal of the assessee

has been dismissed by the Commissioner (Appeals) without going into the merits of the issues raised before him. Sec. 250(6) of the Act prescribes that the order of the Commissioner (Appeals) disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reasons for such a decision. Ostensibly, the CIT(A) is obligated to dispose of the appeal in the manner prescribed in Sec. 250(6) of the Act, which requires that the issues raised before him by way of the Grounds of appeal are addressed, decision rendered thereon by stating the reasons for such a decision. The said approach is conspicuous by its absence in the impugned order of the CIT(A), wherein the appeal has been dismissed *in limine* without adverting to the merits of the Grounds of appeal raised before him. Therefore, on this count itself, the impugned order of CIT(A) is unsustainable. Be that as it may, we deem it fit and proper to set-aside the impugned order of CIT(A) and remand the appeal back to his file for adjudication afresh as per law after allowing the assessee a reasonable opportunity of being heard.

7. In the result, appeal of the assessee is allowed, as above.

Order pronounced in the open court on 12th August, 2016.

Sd/-
(AMARJIT SINGH)
JUDICIAL MEMBER

Sd/-
(G.S. PANNU)
ACCOUNTANT MEMBER

Mumbai, Date : 12th August, 2016

SSL

Copy to :

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

By Order

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