

IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "A", MUMBAI

BEFORE SHRI AMARJIT SINGH (JUDICIAL MEMBER)  
AND  
SHRI S.RIFAUR RAHMAN (ACCOUNTANT MEMBER)

I.T.A No.274 /Mum/2019  
(Assessment year : 2013-14)

M/s Ahalya Trading Pvt Ltd 5, Bhagwati Apartments S.V. Road, Malad (W) Mumbai-400 064 <b>PAN : AAACA5242K</b>	vs	ITO-12(1)(2), Mumbai Aayakar Bhavan, Mumbai-20
<b>APPELLANT</b>		<b>RESPONDENT</b>

Assessee represented by	Shri Bhupendra Shah
Department represented by	Shri K.P.R.R. Murty

Date of hearing	22/03/2022
Date of pronouncement	18/04/2022

O R D E R

Per: S.Rifaur Rahman (AM):

This appeal has been filed by the assessee against the order dated 08/06/2018 passed by the Commissioner of Income-tax (Appeals)-20, Mumbai for the assessment year 2013-14.

2. The Ld.AR of the assessee, at the outset, submitted that the Ld.CIT(A) decided the appeal of the assessee ex parte thereby denying sufficient opportunity of hearing to the assessee. Therefore, the Ld.AR prayed that one

more opportunity may be given to the assessee before the Ld.CIT(A) to present the case of the assessee. The Ld.DR opposed the prayer.

3. Heard the rival submissions. We notice that the Ld.CIT(A), detailing the number of opportunities of hearing provided to the assessee, decided the appeal exparte, on merits. Thus, in substance, he upheld the order of the Assessing Officer in verbatim. In the case of Collector, Land Acquisition vs MST Kattiji & Others 167 ITR 471 (SC), the Hon'ble Apex Court has observed that when technicalities are pitted against each other substantial justice should prevail over technicalities. In the case on hand, we find that giving one more opportunity to the assessee before CIT(A) to present its case, would in no way harm either party. Rather, it would augument the cause of justice and fairplay. Therefore, in the interest of substantial justice, we restore the matter to the file of the CIT(A). The CIT(A) is directed to give another opportunity of being heard to the assessee and after hearing the assessee, to decide the appeal on merit. The assessee is directed to prosecute its appeal before CIT(A) diligently.

4. In the result, appeal of the assessee is treated as allowed for statistical purpose.

Order pronounced in the open court on 18<sup>th</sup> April, 2022.

Sd/-

(AMARJIT SINGH )  
JUDICIAL MEMBER

Mumbai, Dt : 18<sup>th</sup> April, 2022

Pavanan

sd/-

(S.RIFAUH RAHMAN)  
ACCOUNTANT MEMBER

**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.

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar)  
**ITAT, Mumbai**