

आयकर अपीलीय अधिकरण
मुंबई पीठ "ए"
श्री विकास अवस्थी, न्यायिक सदस्य एवं
श्री एस. रिफौर रहमान, लेखा सदस्य के समक्ष
IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "A", MUMBAI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &
SHRI S.RIFAUH RAHMAN, ACCOUNTANT MEMBER
आअसं.16/मुं/2022 (नि.व. 2014-15)
ITA NO.16/MUM/2022(A.Y.2014-15)

Axis Spaces Private Limited,
Level 8 Centrum House,
Vidyanarari Kalina, Santacruz(E),
Mumbai- 400 098.

PAN: AABCT-7014-P

..... अपीलार्थी /Appellant

बनाम Vs.

ACIT(OSD) TDS-1,
Qureshi Mansion, Ground Floor,
Teen Hath Naka, Gokhale Road,
Naupada, Thane (West) – 400 602

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/ Appellant by : Shri Bhupendra Shah

प्रतिवादी द्वारा/Respondent by : Shri Mehul Jain

सुनवाई की तिथि/ Date of hearing : 18/05/2022

घोषणा की तिथि/ Date of pronouncement : 18/05/2022

आदेश/ ORDER

PER VIKAS AWASTHY, JM:

This appeal by the assessee is against an ex-parte order of Commissioner of Income Tax(Appeals), National Faceless Appeal Centre, Delhi [in short 'the CIT(A)'] dated 29/11/2021, for the assessment year 2014-15.

2. Shri Bhupendra Shah appearing on behalf of the assessee submitted that the CIT(A) has dismissed the appeal of assessee in-limine for non-prosecution. The Id.Authorized Representative of the assessee submitted that the assessee has prima-facie good case in its favour. The assessee would be able to show merits in the appeal if an opportunity is granted to appear before the CIT(A).

3. On the other hand, Shri Mehul Jain representing the Department vehemently defended the impugned order. The Id.Departmental Representative submitted that repeated notices were issued to the assessee. The assessee failed to appear before the CIT(A) on the date and time fixed despite service of notice.

4. Both sides heard. The CIT(A) has dismissed the appeal of assessee in-limine by following the order in the case of CIT vs. Multiplan India Ltd, 38 ITD 320(Del). It is no more res-integra that the CIT(A) cannot dismiss the appeal for non-prosecution. The CIT(A) is under obligation to decide appeal of the assessee on merits on the issues/grounds raised in Form No.35. Taking into consideration entirety of facts we deem it appropriate to restore this appeal to the file of CIT(A) for denovo adjudication on merits of the grounds raised in the appeal before First Appellate Authority. The CIT(A) shall allow reasonable opportunity of hearing/ to make submissions to the assessee, in accordance with law.

5. The assessee is directed to make submissions before the CIT(A) after service of notice of hearing, without fail. In case assessee fails to respond to the notice served by CIT(A), the CIT(A) is at liberty to take an adverse view.

6. In the result, appeal by assessee is allowed for statistical purpose, in the terms aforesaid.

Order pronounced in the open court on Wednesday the 18th day of May, 2022.

Sd/-

(S.RIFAUR RAHMAN)

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

मुंबई/ Mumbai, दिनांक/Dated 18/05/2022

Vm, Sr. PS(O/S)

प्रतिलिपि अग्रेषितCopy 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