

**IN THE INCOME TAX APPELLATE TRIBUNAL 'B' BENCH, PUNE**

**SHRI R.S. SYAL, VICE PRESIDENT  
AND  
SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER**

**ITA No. 1151/PUN/2018 : A.Y. 2010-11**

Namdeo T. Khutwad  
Komal Niwas, Sonarpool  
Phursungi, Tal. Haveli,  
Dist. Pune – 413 308  
PAN; ABVPK5162 D

Appellant

Vs.

The Ward 14(4), Pune

Respondent

Appellant by : Shri Pramod Shingte  
Respondent by : Shri Suhas Dabade

Date of Hearing : 13-05-2022

Date of Pronouncement : 06-06-2022

**ORDER**

**PER PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER**

This appeal preferred by the assessee emanates from order of the Id. Commissioner of Income Tax (Appeals)- 7, Pune, dated 11-04-2018 for A.Y. 2010-11 as per the grounds of appeal on record.

2. We have heard both the parties and perused the material available on record. We find that the Ld.CIT(Appeals) has passed an *ex-parte* order and the rights and liabilities of the parties herein were not adjudicated on merits. That on perusal of Para 4 of the CIT(Appeals)'s order, it is apparent that opportunities were provided to the assessee asking him to attend the hearing. However, the assessee had remained absent.

3. That further it is evident from Para 5.1 to 5.7 of the order of the Ld. CIT(Appeals) that he has decided the appeal on the basis of documents available on record. The process of judicial adjudication requires Sub-ordinate Appellate Authority to adjudicate the case on merits and come out with a speaking order. In the present case, the Ld. CIT(Appeals) was unable to do so because of the evasive nature of the assessee. However, keeping in mind the principles of natural justice and the very fact, the Income Tax Act is welfare legislation; we are of the considered view that one more final opportunity should be given to the assessee to present his case on merits. Therefore, the assessee is directed to present himself or through his authorised representative before the Ld. CIT(Appeals) immediately on receipt of this order along with relevant/necessary documents to present his case on merits before the Ld. CIT(Appeals) and he shall adjudicate the same by passing a speaking order while complying with the principles of natural justice. In view of the aforesaid directions, we set aside the order of the Ld. CIT(Appeals) and remit the matter back to his file. Any issuance of notice is dispensed with.

4. In the result, **appeal of the assessee is allowed for statistical purposes.**

Order pronounced in the open Court on this 06<sup>th</sup> day of May 2022

Sd/-  
(R.S. SYAL)  
VICE PRESIDENT

sd/-  
(PARTHA SARATHI CHAUDHURY)  
JUDICIAL MEMBER

Pune; Dated, the 6<sup>th</sup> day of May 2022  
Ankam

**Copy of the Order forwarded to :**

1. The Appellant.
2. The Respondent.
3. The Pr. CCIT 6, Pune
4. The CIT(A)- 7 Pune
5. D.R. ITAT 'B' Bench
5. Guard File

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BY ORDER,

Sr. Private Secretary  
ITAT, Pune.

1	Draft dictated on	09-05-2022	Sr.PS/PS
2	Draft placed before author	09-05-2022	Sr.PS/PS
3	Draft proposed and placed before the second Member		JM/AM
4	Draft discussed/approved by second Member		AM/JM
5	Approved draft comes to the Sr. PS/PS		Sr.PS/PS
6	Kept for pronouncement on	06-06-2022	Sr.PS/PS
7	Date of uploading of order	06-06-2022	Sr.PS/PS
8	File sent to Bench Clerk	06-06-2022	Sr.PS/PS
9	Date on which the file goes to the Head Clerk		
10	Date on which file goes to the A.R		
11	Date of dispatch of order		