

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

**BEFORE SHRI VIKAS AWASTHY, HON'BLE JUDICIAL MEMBER AND
SHRI S. RIFAUR RAHMAN, HON'BLE ACCOUNTANT MEMBER**

ITA NO. 2185/MUM/2021 (A.Y. 2018-19)

Estate of Late Harkishin Bhojraj Chanrai 42 A Advent, Gen Jagannath Bhosale Marg Churchgate, Mumbai - 400021 PAN: AABAE0681R	v.	DCIT, CPC
(Appellant)		(Respondent)

Assessee by	:	Shri Prakash Jotwani
Department by	:	Shri Anil Gupta
Date of Hearing	:	18.05.2022
Date of Pronouncement	:	21.06.2022

ORDER

PER S. RIFAUR RAHMAN (AM)

1. This appeal is filed by the assessee against order of the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [hereinafter in short "Ld.CIT(A)"] dated 18.10.2021 for the A.Y.2018-19.
2. Assessee has raised following grounds in its appeal: -

"Ground No. 1: Exparte Order

1. The learned CIT(A) erred in passing an exparte Order, on the ground that there was no response on the income tax website, to the notices of hearing and failed to take into consideration that the income tax website had been completely revamped and that the access to the website was not possible since the Username (PAN of Estate) and Password was treated as invalid.

2. Without prejudice, the learned CIT(A) failed to take into consideration the written submissions and the paperbook was uploaded on the portal on 18-01-2021 (i.e. before the new website was launched) and therefore the case could have been considered on merits.

Ground No. 2: Rate of Tax

1. The learned CIT(A) erred in confirming the action of the AO of treating the Assessee as an 'Association of Persons' instead of 'Individual', only on the ground that there were two executors of the Assessee and consequently erred in charging the maximum marginal rate of tax instead of normal tax slab rates that apply to senior citizen individual."

3. Ld. Counsel for the assessee submits that Ld.CIT(A) passed exparte order without providing adequate opportunity of being heard to the assessee, therefore, considering additions/disallowance made by the Assessing Officer Ld. Counsel for the assessee requested that the matter may be restored to the file of the Ld.CIT(A).

4. Ld. DR has no serious objection in remitting the matter back to the file of the Ld.CIT(A).

5. Considered the rival submissions and material placed on record, on a perusal of the Ld.CIT(A) order, we find that the even though the Ld.CIT(A) provided opportunity on several occasions assessee could not appear. Considering the totality of facts and submissions of the Ld. AR and keeping in view the additions/disallowance made by the Assessing Officer, we are of the opinion that assessee should be given one more opportunity of being heard. Thus, this appeal is restored to the file of the Ld.CIT(A) for denovo adjudication in accordance with law. Assessee shall cooperate with the proceedings before the Ld.CIT(A) without taking unnecessary adjournments. Thus, this appeal is restored to the file of the Ld.CIT(A) accordingly.

6. In the result, appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 21st June, 2022.

Sd/-
(VIKAS AWASTHY)
JUDICIAL MEMBER
Mumbai / Dated 21.06.2022
Giridhar, Sr.PS

Sd/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER

(Asstt. Registrar)
ITAT, Mum