

**INCOME TAX APPELLATE TRIBUNAL  
MUMBAI 'SMC' BENCH, MUMBAI**

**[Coram: Pramod Kumar (Vice President)]**

ITA No.7628/Mum/2019  
Assessment Year: 2011-12

**Harman H. Baweja**

*C-65, Ashirwad, Lokandwala Complex,  
Andheri (W), Mumbai 400058 [PAN: AFZPB8018B]*

..... **Appellant**

**Vs.**

**Income Tax Officer, 16(1)(2)  
Mumbai**

.....**Respondent**

**Appearances:**

**Vimal Punmiya** *for the appellant*

**Milind Chavan** *for the respondent*

Date of concluding the hearing : March 11, 2022

Date of pronouncement the order : June 09 , 2022

**O R D E R**

**Per Pramod Kumar, VP:**

1. By way of this appeal, the assessee appellant has challenged correctness of the order dated 30<sup>th</sup> October 2019 passed by the learned CIT(A) in the matter of assessment under section 147 r.w.s. 254 of the Income Tax Act 1961 for the assessment year 2011-12.

2. Grievances raised by the assessee, which we will take up together, are as follows:-

*1. On the facts and circumstances of the case the Ld. CTI(A) erred in confirming the assessment order passed by the Ld. AO u/s. 147 r.w.s. 254 of the I T Act, 1961 assessing the total income at Rs. 24,14,710/- and thereby erred in confirming the addition to the total income of the appellant, being the difference between the income earned from interest and expenses claimed to earn the income and thereby treated the same as non business expenditure in view of section 57 of the I T Act 1961.*

2. *The Ld. CIT(A) erred in confirming the charging of interest under section 234A, 234B, 234C of the Income Tax Act, 1961.*
3. When this appeal came up for hearing, it was noticed that the impugned order of the learned CIT(A) is an ex-parte order and that the assessee, despite having been given sufficient opportunity, did not appear before the learned CIT(A). Learned counsel for the assessee nevertheless urged us to adjudicate on merits as, according to him, the assessee was prevented by sufficient cause from appearing before the learned CIT(A) and, as this is second round of proceedings. The learned Departmental Representative on the other hand submitted that the matter can at best be remitted to the file of the learned CIT(A) for fresh adjudication after giving the assessee get another opportunity of appearing before him. He nevertheless defended the matter on merits as well.
4. I have heard the rival contentions, perused the material on record and duly considered facts of the case in the light of applicable legal position.
5. I have noted that the impugned CIT(A) order is an ex-parte order and that the assessee had even during the remand assessment proceedings not responded to the show cause notice dated 04.10.2018 issued by the Assessing Officer. In these circumstances in my considered view it would not be appropriate to deal with the matter on merits directly at this stage. I therefore deem it fit and proper to remit the matter to the file of the learned CIT(A) for adjudication on merits after giving assessee one more opportunity of hearing, by way of a speaking order and in accordance with law. The assessee has liberty to address his arguments on merits before the learned CIT(A) and submit such supporting evidences as he deems fit. With these directions the matter stands restored to the file of the Assessing Officer for adjudication de novo.
6. In the result, the appeal is allowed in the terms indicated above. Pronounced in the open court today on the 09<sup>th</sup> day of June 2022.

Sd/-  
**Pramod Kumar**  
(Vice President)

**Mumbai, dated the 09<sup>th</sup> day of June 2022.**

*Copies to:*

(1)	<i>The Appellant</i>	(2)	<i>The respondent</i>
(3)	<i>CIT</i>	(4)	<i>CIT(A)</i>
(5)	<i>DR</i>	(6)	<i>Guard File</i>

*By order*

*Assistant Registrar/Sr.PS  
Income Tax Appellate Tribunal  
Mumbai benches, Mumbai*