

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI 'E' BENCH, MUMBAI**

**[Coram: Pramod Kumar (Vice President),  
and Pavan Kumar Gadale (Judicial Member)]**

ITA Nos.393, 395 to 397/Mum/2022  
ITA No. 532/Mum/2022  
Assessment years: 2008-09, 2010-11 to 2013-14

**Samira Habitats India Limited** ..... **Appellant**  
*G-8, Shrikant Chambers, Sion Tromboy Road,  
Chembur, Mumbai 400071 [PAN:AABCS1677F]*

**Vs.**

**Deputy Commissioner of Income Tax, Central Circle-6(2)**  
**Mumbai** ..... **Respondent**

**Appearances by**

**Gaurav Kabra** *for the applicant*  
**A.B Koli** *for the respondent*

Date of concluding the hearing : July 19, 2022  
Date of pronouncement the order : July 19, 2022

**ORDER**

**Per Pramod Kumar, VP:**

1. These five appeals pertain to same assessee involve a common issue arising out of materially similar set of facts and were heard together. As a matter of convenient therefore all the five appeals are being disposed of by way of this consolidated order.

2. These appeals call into question correctness of the ex-parte orders dated 30.12.2021 & 23.02.2022, passed by the learned CIT(A) in the matter of assessment under section 153C r.w.s 144 of the Income Tax Act, 1961, for the assessment years 2008-09, 2010-11 to 2013-14.

3. When this appeals came up for hearing learned counsel for the assessee fairly pointed out that all the impugned orders are ex-parte orders as the assessee could not participate in the proceedings before the CIT(A), on account of a very tough patch of time that the assessee was traversing through. It is pointed out that the business of the assessee had come to a virtual halt and the assessee was on the verge of closure of business. It was also pointed out, as evident from the board resolution dated 15.12.2021, that the Managing Director of the Company has resigned

and an Additional Director had to be inducted to ensure smooth functioning of the company. Learned counsel for the assessee, however, assured us that in the event of the assessee being given one more opportunity of appearing before the CIT(A), the assessee will ensure scrupulous compliance with the notices of the CIT(A) and an expeditious disposal of appeals on merits. We, were thus urged to remit the matter to the file of the CIT(A) for fresh adjudication after given one more opportunity of hearing to the assessee.

4. The learned Departmental Representative, however, pointed out that the assessee has been given sufficient opportunity of hearing and yet the assessee has not availed the same. It was also pointed out that in respect of some other assessment years the assessee has duly co-operated by appearing before the CIT(A) and making details submissions. There was thus no ground for not appearing before the CIT(A) for these assessment years. We are thus urged to confirm the action of the CIT(A) and decline to interfere in the matter. In response to a question of the bench however, learned Departmental Representative did accept that they cannot be any objection to the matter being remitted to the file of the CIT(A) for adjudication on merits as no legitimate prejudice will be caused to the interests of the revenue by such a course of action.

5. We have heard the rival contentions, perused the material on record and duly considered the facts of the case in the light of the applicable legal position.

6. We are of the considered view that having regard to the undertaking given by the learned counsel for the assessee and having regard to the fact that the assessee was indeed traversing through a very difficult patch of time, we deem it fit and proper to remit the matter to the file of the CIT(A) for adjudication de *novvo* on merits after given one more opportunity of the assessee, in accordance with the law and by of the speaking order. The assessee, however, is cautioned to ensure that at least this time the assessee will duly co-operate and expeditious disposal of the remanded proceedings and scrupulous comply with the notices of hearing. In view of these discussions, as also bearing in mind the entirety of the case, we deem it fit and proper to remit the matter to the file of the CIT(A) for fresh adjudication as above.

7. In the result, all the five appeals are allowed for statistical purposes in the terms indicated above. Pronounced in the open court today on the 19<sup>th</sup> day of July 2022.

Sd/-

**Pavan Kumar Gadale**  
(Judicial Member)

Sd/-

**Pramod Kumar**  
(Vice President)

**Mumbai, dated the 19<sup>th</sup> July, 2022**

*Copies to:*

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

*By order*

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