

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

**[Coram: Pramod Kumar (Vice President)  
and Kavitha Rajagopal (Judicial Member)]**

ITA No.1779/Mum/2019  
Assessment Year: 2005-06

**Goldstone Trading Company Pvt Ltd.,**  
*B-502, Aster Tower, Vasant Valley Complex II,  
Gen. A.K. Vaidya Marg, Malad (E)Mumbai 400097  
[PAN: AACCG1769B]*

..... Appellant

Vs.

**Assistant Commissioner of Income Tax-9(1)  
Mumbai**

.....Respondent

**Appearances:**

**Dhruv Shah** for the appellant  
**Mehul Jain** for the respondent

Date of concluding the hearing : May 27, 2022  
Date of pronouncement the order : August 23, 2022

**O R D E R**

**Per Pramod Kumar, VP:**

1. By way of this appeal, the assessee-appellant has challenged the correctness of the ex-parte order dated 14<sup>th</sup> December 2018, passed by the learned CIT(A) in the matter of assessment under section 143(3) r.w.s. 147 of the Income Tax Act, 1961 for the assessment year 2005-06.

2. In the first ground of appeal, the assessee has raised the following grievance:-

*1 The Commissioner of Income-Tax (Appeals)-20 (hereinafter referred to as the CIT(A)) erred in framing an ex parte order.*

*The appellants contend that on the facts and in the circumstances of the case and in law, the CIT(A) ought to have framed an ex parte order inasmuch as the CIT(A) did not accept the letter of adjournment of the appellants on the date of hearing.*

3. On a perusal of the impugned order, we find that, on 7<sup>th</sup> December 2018, learned CIT(A) rejected the adjournment petition filed by the assessee and decided the matter ex-parte *qua* the assessee.

4. Learned counsel for the assessee submits that the assessee had bonafide reasons for non-appearance on the scheduled date of hearing before the CIT(A) on 07.12.2008, and the assessee had duly requested the learned CIT(A) for a short adjournment. He further assessee that given an opportunity the assessee will duly comply to the notices of hearing and ensure full cooperation for expeditious disposal of appeal on merits. Learned Departmental Representative, on the other hand, points out that the assessee was given fair opportunity of hearing and yet the assessee did not avail the same. He further submits that no useful purpose will be served by affording yet another opportunity of hearing to the assessee.

5. Having heard the rival contentions and having perused the material on record, we are inclined to uphold the plea of the assessee and provide yet another opportunity of hearing to the assessee. We see no harm in providing one more opportunity of hearing to the assessee, and the assessee has assured us of his full cooperation. In case, however, the assessee does not fully cooperate in expeditious disposal of remanded proceedings, learned CIT(A) will be at liberty to take such action, apart from disposal of appeal based on material on record, as he deems fit and proper and judicious. The matter is thus restored to the file of the learned CIT(A) for adjudication *de novo* after affording yet another opportunity of hearing to the assessee, by way of a speaking order, and in accordance with the law. Ordered, accordingly.

6. As the matter is remitted to the file of the learned CIT(A) for fresh adjudication. We see no need to deal with other grievances of the assessee which deal with the merits. These aspects of the matter, as of now, are infructuous, and are dismissed as infructuous.

7. In the result the appeal is allowed for statistical purposes in the terms indicated above. Pronounced in the open court today on the 23<sup>rd</sup> day of August 2022.

Sd/-  
**Kavitha Rajagopal**  
(Judicial Member)

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

**Mumbai, dated the 23<sup>rd</sup> day of August, 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*