

आयकर अपीलीय अधिकरण
मुंबई पीठ "जे"
श्री विकास अवस्थी, न्यायिक सदस्य एवं
श्री एस. रिफौर रहमान, लेखा सदस्य के समक्ष
IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "J", MUMBAI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &
SHRI S.RIFAUH RAHMAN , ACCOUNTANT MEMBER
आअसं.7445/मुं/2014 (नि.व. 2009-10)
ITA NO.7445/MUM/2014(A.Y.2009-10)

Tricom India Limited.
Gandhi Estate, A.K.Road,
Safed Pool, Sakinaka,
Andheri-Kurla Road, Mumbai 400 072.
PAN: AAAC-2807-R

..... अपीलार्थी /Appellant

बनाम Vs.

ITO-8(3)(3),
202, 2ND Floor,
Aaykar Bhavan, MK Road,
Mumbai 400 020.

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/ Appellant by : None

प्रतिवादी द्वारा/Respondent by : Shri Samuel Pitta

सुनवाई की तिथि/ Date of hearing : 18/08/2022

घोषणा की तिथि/ Date of pronouncement : 29/08/2022

आदेश/ ORDER

PER VIKAS AWASTHY, JM:

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals)-15, Mumbai [in short 'the CIT(A)] dated 16/09/2014.

2. From the perusal of appeal file it emanate that the assessee company is under liquidation and Official Liquidator has been appointed. The notice of

hearing fixed for 06/02/2020 was served on official Liquidator through the office of Departmental Representative. Despite service of notice none appeared to represent assessee from the office of Official Liquidator, No fresh Form-36 is filed either. The present appeal is not maintainable in the absence of non-joinder of necessary party. Hence, the same is dismissed as not maintainable.

3. A perusal of the impugned order further shows that the assessee has not paid tax on the returned income. The CIT(A) has dismissed the appeal of assessee in the light of the provisions of section 249(4) of the Income Tax Act, 1961 [in short 'the Act']. No material is available before us to show that the assessee has paid the tax due on the income returned. In the absence of payment of tax on the returned income the appeal is rendered defective.

4. Liberty is given to revive the appeal within a reasonable time subject to filing of revised Form-36 and compliance of the provisions of section 249(4) of the Act.

5. In the result, appeal by assessee is dismissed.

Order pronounced in the open court on Monday the 29th day of August, 2022.

Sd/-

(S.RIFAUR RAHMAN)

लेखा सदस्य/ACCOUNTANT MEMBER

मुंबई/ Mumbai, दिनांक/Dated 29/08/2022

Vm, Sr. PS(O/S)

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

प्रतिलिपि अग्रेषितCopy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त(अ)/ The CIT(A)-
4. आयकर आयुक्त CIT
5. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT,
Mumbai
6. गार्ड फाइल/Guard file.

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai