

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

**BEFORE SHRI ABY T. VARKEY, JM**

आयकर अपील सं/ I.T.A. No.1861/Mum/2020  
(निर्धारण वर्ष / Assessment Years: 2009-10)

Abdul Kalam Mohd Islam Sheikh D-101, 1 <sup>st</sup> Floor, Mougara-5 Evershine Nagari Complex, Valiv Vasai (E)-401208.	<b>बनाम/</b> Vs.	ITO, Ward-4(1) Room No. 3, A-Wing, 6 <sup>th</sup> Floor, Ashar I. T. Park, Wagle Indl, Estate, Thane-400604.
<b>स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AZSPS3613A</b>		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
Assessee by:	None	
Revenue by:	Shri Mahender Ahuja	

सुनवाई की तारीख / Date of Hearing: 24/11/2022  
घोषणा की तारीख /Date of Pronouncement: 23/12/2022

**आदेश / ORDER**

**PER ABY T. VARKEY, JM:**

This is an appeal preferred by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals)-03, Mumbai dated 05.03.2015 for the assessment year 2009-10.

2. None appeared for the assessee despite service of notices. It is noted that this is the appeal pertaining to AY. 2009-10 and the matter has been listed several time and notices have been served upon the assessee informing the date of hearing. Despite that non-appeared. However, while through the grounds of appeal it came to my notice ground no 4 which reads as under:-

4. "The Ld Commissioner of Income Tax(Appeal) has passed order when application for adjournment has been submitted as the date of hearing was been



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fixed in the period of Pandemic where there was lockdown imposed all over my area of Vasai (West) Thane-401208 due to which the appellant was unable to submit the document.”

3. From a perusal of the aforesaid ground of appeal it is discerned that assessee is aggrieved by the action of the Ld.CIT(A) in fixing the matter/hearing during the Pandemic period (Covid-19); and since there were several restrictions/lockdown imposed by the Government, he could not be appear/submit the relevant documents/written submission before the Ld. CIT(A). This fact is found to be correct because Ld. CIT(A) in the first page of the impugned order itself has recorded against the column of dates of hearing “29-07-2020 and earlier dates as per order sheet”. And thereafter he has passed the order on 10<sup>th</sup> Aug 2020. It is thus noted that when the date of hearing was on 29<sup>th</sup> July 2020 it was in the midst of Covid-19 Pandemic. It is common knowledge that due to Covid-19 Pandemic, the Government had imposed stringent restrictions/lockdowns. Therefore, I find substance in the aforesaid ground of appeal raised by the assessee and therefore without getting into the merits of the grounds raised before the Ld.CIT(A), I am inclined to set aside the order of the Ld.CIT(A) and restore the same back to the file of Ld.CIT(A) and direct him to adjudicate the grounds of appeal afresh after giving proper opportunity to the assessee. And the assessee is directed to appear and file written submission/document as per law before the Ld.CIT(A); and Ld.CIT(A) to decide the appeal afresh in accordance to law.



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4. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on this 23/12/2022.

Sd/-  
(ABY T. VARKEY)  
JUDICIAL MEMBER

मुंबई Mumbai; दिनांक Dated : 23/12/2022.  
Vijay Pal Singh, (Sr. PS)

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार / (Dy./Asstt. Registrar)  
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai