

**IN THE INCOME TAX APPELLATE TRIBUNAL
“D” BENCH, MUMBAI**

**BEFORE SHRI AMIT SHUKLA, JM &
SHRI S. RIFAUR RAHMAN, AM**

आयकरअपीलसं./ I.T.A. No. 1172/Mum/2020
(निर्धारणवर्ष / Assessment Year: 2014-15)

M/s MK Chandan Broking Ltd (formerly known as M/s RTG Share Broking Ltd.) 3, Gadiya House, Chappel Road, Near-Jeff Ca. Off Hill Road, Bandra (west), Mumbai-400 050	बनाम/ Vs.	CIT(A) – 21, Mittal Court, Nariman Point, Churchgate, Mumbai-400 021
स्थायीलेखासं ./जीआइआरसं ./PAN No. AADCR9629L		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Shri Bimlendu Bhushan, Ld. AR
प्रत्यर्थीकीओरसे/ Respondent by	:	Shri Ashish Kumar, Ld. DR
सुनवाईकीतारीख/ Date of Hearing	:	28.12.2022
घोषणाकीतारीख / Date of Pronouncement	:	28.12.2022

आदेश / O R D E R

Per Amit Shukla, Judicial Member:

The aforesaid appeal has been filed by the assessee against the impugned order dated 28.11.2019, passed by Ld. CIT(A)-21, Mumbai for the quantum appeal of assessment passed u/s 143(3) for AY 2014-15.

2. The assessee is mainly aggrieved by ex-parte order passed by Ld. CIT (A) without giving any reasonable and sufficient opportunity of being heard to the assessee and not deciding the appeals on merits.

3. Before us, Ld. Counsel for the assessee submitted that during the year under consideration, it has incurred heavy losses from the business operation and the assessee's company was remained closed most often. Therefore, the notices were returned by the postal authorities as 'Unserved'. He further submitted that Ld. CIT(A) had confirmed the order of AO on the ground that assessee could not comply with the notices and consequently concluded the assessee's proceedings ex-parte without offering sufficient opportunity of being heard to the assessee. He further submitted that Ld. CIT (A) has dismissed the appeal of the assessee without adjudication on merits, therefore he requested that the matter be restored back to the file of Ld. CIT(A).

4. On the other hand, Ld. DR does not have any objection if the matter is remitted back to the file of Ld. CIT (A) to be decided on merits.

5. We have heard both the parties and perused the impugned order as well as material placed on record. We find that assessee was not aware of such notices sent due to non-functioning of its company because of heavy losses from the business, therefore the notices sent to his address were returned back 'Unservd' by the postal authorities. For that reason, Ld. CIT (A) had confirmed the order of AO on the ground that assessee could not comply with the notices and consequently concluded the appellate proceedings ex-parte without offering sufficient opportunity of being heard to the assessee. Looking to the fact that Ld. CIT(A) has not decided the issue before him on merits, therefore, in the interest of justice we remit back the entire appeal to the file of Ld. CIT(A) to decide afresh and in accordance with law on the grounds raised before him after giving the assessee due and effective opportunity of being heard. The assessee is also directed to co-operate in the hearing and to substantiate its case.

6. In the result, the appeal filed by the assessee is **allowed for statistical purposes.**

Orders pronounced in the open court on 28th December, 2022.

Sd/-
(S. Rifaur Rahman)
Accountant Member

Sd/-
(Amit Shukla)
Judicial Member

मुंबई Mumbai;दिनांक Dated : 28.12.2022
Sr.PS. Dhananjay

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT- concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

आदेशानुसार/ BY ORDER,

उप/सहायकपंजीकार (Dy./ Asstt.Registrar)
आयकरअपीलीयअधिकरण, मुंबई/ ITAT, Mumbai