

आयकर अपीलिय अधिकरण  
मुंबई पीठ "ए", मुंबई  
श्री विकास अवस्थी, न्यायिक सदस्य एवं  
श्री एम बालगणेश, लेखाकार सदस्य के समक्ष  
IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "A ", MUMBAI  
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &  
SHRI M. BALAGANESH, ACCOUNTANT MEMBER  
आअसं. 3044/मुं/ 2022 (नि.व. 2016-17)  
ITA NO. 3044/MUM/2022(A.Y.2016-17)  
आअसं. 3045/मुं/ 2022 (नि.व. 2017-18)  
ITA NO. 3045/MUM/2022(A.Y.2017-18)

Anfilco Limited  
4<sup>th</sup> Floor, Magnet House,  
N.Morarjee Marg, Ballard Estate,  
Mumbai -400 020  
PAN:AAACA-3259-J

..... अपीलार्थी /Appellant

बनाम Vs.

The Asstt. Commissioner of Income Tax,  
Circle – 2(1)(1),  
Aaykar Bhavan, M.K.Road,  
Mumbai – 400 020

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/ Appellant by : Shri Viksit Bhargeva with  
Ms. Deepika Dingreja  
प्रतिवादी द्वारा/Respondent by : Shri Manoj Kumar Sinha

सुनवाई की तिथि/ Date of hearing : 31/01/2023  
घोषणा की तिथि/ Date of pronouncement : 31/01/2023

**आदेश/ ORDER**

**PER VIKAS AWASTHY, JM:**

These two appeals by the assessee are directed against the orders of Commissioner of Income Tax(Appeals) National Faceless Appeal Centre, Delhi [in short 'the CIT(A)']for Assessment Years 2016-17 and 2017-18, respectively. Both the impugned orders are of even date i.e. 07/10/2022.

2. Shri Viksit Bhargeva appearing on behalf of the assessee submits at the outset that the orders passed by CIT(A) for the respective Assessment Years are liable to be quashed on the ground that the CIT(A) has dismissed the appeals of assessee in-limine for non appearance. The Id. Authorized Representative for the assessee submits that the CIT(A) had issued notices on two occasions i.e. notice dated 02/08/2022 for hearing dated 17/08/2022 and second notice on 01/09/2022 for hearing on 16/09/2022. On both occasions, the assessee had submitted an application praying for adjournment. The Id. Authorized Representative for the assessee prayed for restoring appeals back to the CIT(A). He contended that the assessee has prima facie good case in its favour.

3. Per contra, Shri Manoj Kumar Sinha representing the Department vehemently defended the impugned order. The Id. Departmental Representative submits that despite repeated notices the assessee failed to comply with the notice and did not co-operate in appellate proceedings.

4. Both sides heard, orders of authorities below examined. A perusal of the impugned orders passed by CIT(A) for both the Assessment Years under appeal show, that the appeals for respective Assessment Years were dismissed by the First Appellate Authority for non-compliance of notices. The appeals of the assessee were dismissed in-limine without any findings on merits. The provisions of Income Tax Act does not permit CIT(A) to dismiss the appeal of assessee for non-prosecution [Re. Multiplan India (P) Ltd., 38 ITD 320(Del)] The CIT(A) has to pass the order on merits after examining the records. Taking into consideration entire facts, we deem it appropriate to restore the appeal for Assessment Years 2016-17 and 2017-18 to the file of

CIT(A) for fresh adjudication on merits after affording reasonable opportunity of making submissions/hearing to the assessee, in accordance with law.

5. The assessee is directed to co-operate with the CIT(A) in First Appellate proceedings and make submissions, if any.

6. In the result, impugned orders for Assessment Year 2016-17 and 2017-18 are quashed and appeals of the assessee for the said Assessment Years are allowed for statistical purpose.

Order pronounced in the open court on Tuesday the 31<sup>st</sup> day of January, 2023.

Sd/-

( M. BALAGANESH )

लेखाकार सदस्य/ACCOUNTANT MEMBER

मुंबई/ Mumbai, दिनांक/Dated 31/01/2023

Vm, Sr. PS(O/S)

**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.

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar) /  
Sr.Private Secretary  
ITAT, Mumbai