

**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH : BANGALORE**

**BEFORE SMT. BEENA PILLAI, JUDICIAL MEMBER
AND
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

ITA No. 1092/Bang/2022
Assessment Year : 2015-16

Shri Mithalal Choridia Mahender Kumar, No. 136, 1 st Floor, Sultanpet, Bangalore – 560 053. PAN: ABKPM0416D	Vs.	The Assistant Commissioner of Income Tax, Central Circle – 1(2), Bangalore.
APPELLANT		RESPONDENT

Assessee by	:	Smt. Suman Lunkar, CA
Revenue by	:	Shri Gudimella VP Pavan Kumar, JCIT-DR

Date of Hearing	:	05-01-2023
Date of Pronouncement	:	28 -02-2023


ORDER

PER BEENA PILLAI, JUDICIAL MEMBER

Present appeal is filed by assessee against order dated 15/11/2022 passed by the Ld.CIT(A)-11, Bangalore for A.Y. 2015-16.

2. At the outset, the Ld.AR submitted that the impugned order has been passed without giving an opportunity of being heard to the assessee. The Ld.AR submitted that on various dates when the hearing was fixed, adjournment applications were filed seeking time. However, the Ld.CIT(A) has not granted opportunity and dismissed the appeal ex-parte.

3. In support of the submissions, the Ld.AR has filed the copies of the adjournment letters that was filed before the Ld.CIT(A) on the relevant dates which is scanned and reproduced as under:

 Gmail Rajesh Sethia <rhsethia@gmail.com>

Fwd: Seek adjournment request to Notice $\$(getRefNo())$ successfully submitted
1 message

Mahendra Pharma <mahendrablore@gmail.com> Wed, Jan 4, 2023 at 5:39 PM
To: Rajesh Sethia <rhsethia@gmail.com>

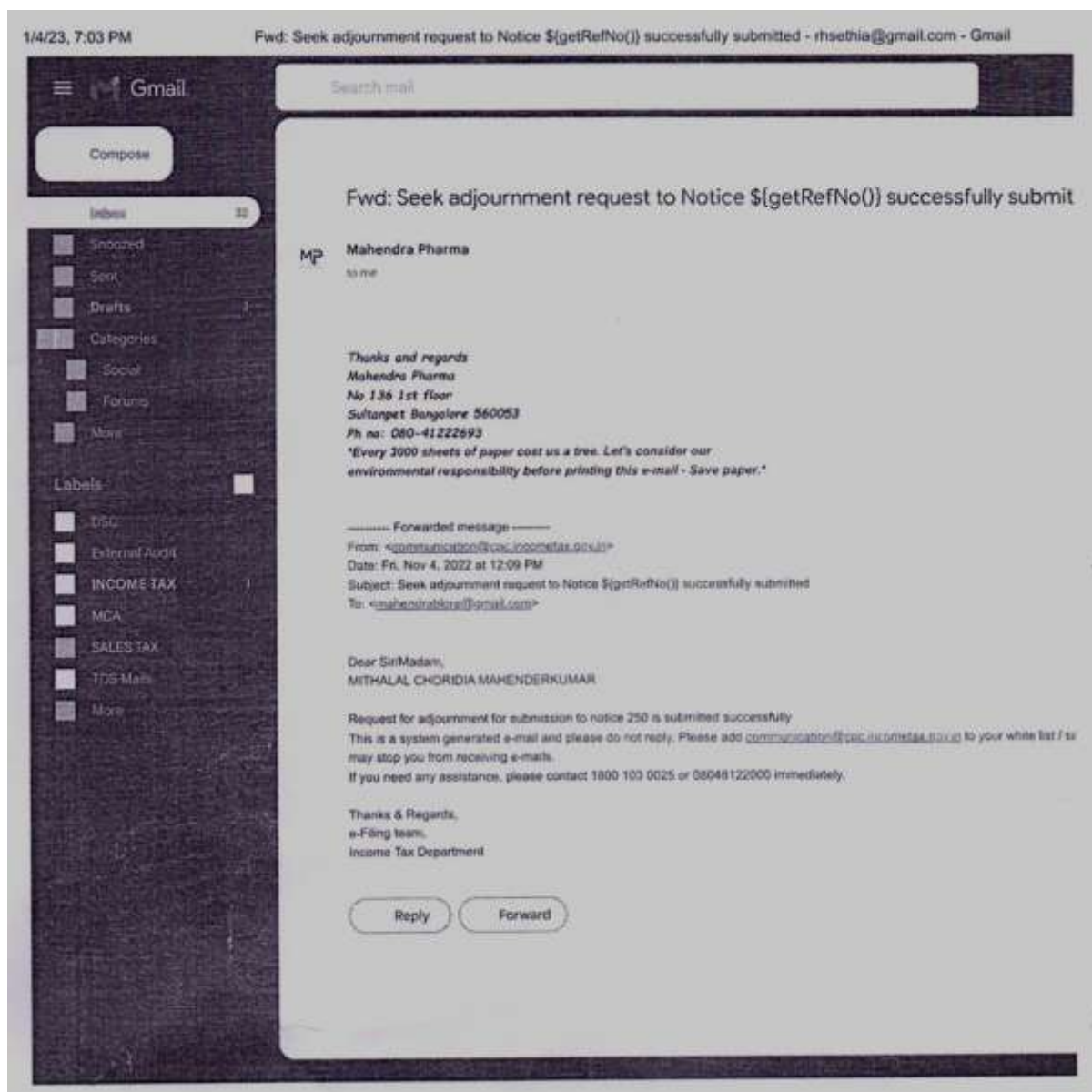
*Thanks and regards
Mahendra Pharma
No 136 1st floor
Sultanpet Bangalore 560053
Ph no: 080-41222693
*Every 3000 sheets of paper cost us a tree. Let's consider our
environmental responsibility before printing this e-mail - Save paper.**

----- Forwarded message -----
From: <communication@cpc.incometax.gov.in>
Date: Thu, Sep 15, 2022 at 3:01 PM
Subject: Seek adjournment request to Notice $\$(getRefNo())$ successfully submitted
To: <mahendrablore@gmail.com>

Dear Sir/Madam,
MITHALAL CHORIDIA MAHENDERKUMAR

Request for adjournment for submission to notice 250 is submitted successfully
This is a system generated e-mail and please do not reply. Please add communication@cpc.incometax.gov.in to your white list / safe sender list. Else, your mailbox filter or ISP (Internet Service Provider) may stop you from receiving e-mails.
If you need any assistance, please contact 1800 103 0025 or 08046122000 immediately.

Thanks & Regards,
e-Filing team,
Income Tax Department



We have perused the submissions advanced by both sides in the light of records placed before us.

4. In the interest of justice, we deem it fit and proper to remand this case back to the Ld.CIT(A) to decide the issues afresh after granting proper opportunity of being heard to assessee. The Ld.CIT(A) is directed to issue notice to the assessee and call for relevant details. Assessee is directed to file all requisite details before the Ld.CIT(A) in support of its contention. Needless to say

that proper opportunity of being heard must be granted to assessee.

Accordingly, the grounds raised by the assessee stands allowed for statistical purposes.

In the result, the appeal filed by the assessee stands allowed for statistical purposes.

Order pronounced in the open court on 28th February, 2023.

Sd/-
(LAXMI PRASAD SAHU)
Accountant Member

Sd/-
(BEENA PILLAI)
Judicial Member

Bangalore,
Dated, the 28th February, 2023.
/MS /

Copy to:

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|---------------|------------------------|
| 1. Appellant | 4. CIT(A) |
| 2. Respondent | 5. DR, ITAT, Bangalore |
| 3. CIT | 6. Guard file |

By order

Assistant Registrar,
ITAT, Bangalore