

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

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
SHRI S RIFAUR RAHMAN, ACCOUNTANT MEMBER**

**ITA No.2531/Mum/2023
(Assessment Year: 2009-10)**

&

**ITA No.2501/Mum/2023
(Assessment Year :2017-18)**

M/s. Eversmile Properties Pvt. Ltd., 75, Old Block Factory Sector-I, Srishti Housing Complex Penkar Pada, Mira Road Thane- 401004	Vs.	DCIT, Circle-10(1)(2) Mumbai
PAN/GIR No.AAACE1576C		
(Appellant)	..	(Respondent)

Assessee by	None
Revenue by	Shri R.R.Makwana
Date of Hearing	18/03/2024
Date of Pronouncement	18/03/2024

आदेश / O R D E R

PER BENCH:

The aforesaid appeals have been filed by the assessee against order dated 23/12/2022 for the A.Y.2017-18 and 2009-10 passed by NFAC, Delhi.

2. Assessee is mainly aggrieved by *ex parte* order passed by the Id. CIT(A) dismissing the appeal in limine and without deciding the issue on merits.

3. From the perusal of the impugned order it is seen that assessee's case was posted for hearing and notices were sent through ITBA portal from NFAC. In the impugned order ld. CIT (A) has incorporated the grounds as well as the statement of facts. However, he noted that assessee was granted opportunity to file submissions and documents vide notice dated 22/01/2021 and 30/11/2022. Since, no submissions have been filed and therefore, appeal of the assessee has been dismissed on the ground that assessee is not interested in prosecuting the appeal. Since, appeal has been dismissed *exparte* by the ld. CIT (A) without deciding on merits, therefore, in the interest of justice, both the appeals are restored back to the file of the First Appellate Authority to decide the issue on merits after giving reasonable opportunity of hearing to the assessee and the assessee is also directed to update the correct e-mail ID and participate in the proceedings to substantiate its case. Accordingly, both the appeals are restored back to the file of the ld. CIT (A).

4. In the result, both the appeals of the assessee are allowed for statistical purposes.

Order pronounced on 18th March, 2024.

Sd/-
(S.RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Mumbai; Dated 18/03/2024
KARUNA, *sr.ps*

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai