

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

**SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER  
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER**

**ITA No. 3351/MUM/2024  
(Assessment Year: 2012-13)**

**Leena Piyush Mehta**

c-30 Vindavan Ranisa CHS,  
S.N. Road, Mulund (West)  
Mumbai - 400080  
[PAN: AIVPM9550G]

..... **Appellant**

**Income Tax Officer 3(5),**

Rani Mansion, 2<sup>nd</sup> floorm, Murbad  
Road, Kalyan, 421301

Vs

..... **Respondent**

**Appearance**

For the Appellant/Assessee : Shri Viraj Mehta  
For the Respondent/Department : Shri Rajesh Manoj Kumar

**Date**

Conclusion of hearing : 14.08.2024  
Pronouncement of order : 21.08.2024

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**ORDER**

**Per Rahul Chaudhary, Judicial Member:**

1. By way of the present appeal the Assessee has challenged the order, dated 30/04/2024, passed by the Ld. Commissioner of Income Tax, Appeal, ADDL/JCIT(A)-1, Noida, Delhi [hereinafter referred to as 'the **CIT(A)**'] for the Assessment Year 2012-13, whereby the Ld. CIT(A) had dismissed the appeal of the Assessee against the Assessment Order, dated 11/12/2019, passed under Section 143(3) read with section 147 the Income Tax Act, 1961 (hereinafter referred to as 'the **Act**').
2. The Assessee has, inter alia, raised the following grounds of appeal:

"1) *On facts and circumstances, Ld. CIT(A) has erred in passing the order without providing proper opportunity of hearing to the appellant. Said addition confirmed is bad in law and liable to be deleted as order is passed without opportunity of being heard and violating the principles of natural justice.*"

3. We have heard both the sides on the above ground and perused the material on record. On perusal of the impugned order, dated 30/04/2024, passed by the CIT(A) under Section 250 of the Act we find that the CIT(A) has not adjudicated the appeal on merits and has dismissed the same observing that the Appellant was not interested in pursuing the appeal. As per provisions contained in Section 250 of the Act, whether an assessee appears before the CIT(A) or not, it is the statutory obligation of the CIT(A) to dispose of an appeal on merits. Section 250(6) of the Act lays down that the order passed by the CIT(A) shall be in writing and shall state the points for determination; the decision thereon; and the reason for the decision. [*Marvel Industries Limited Vs. Deputy Commissioner of Income Tax, Circle 2(2)(2), Mumbai, dated 19/07/2022, ITA No. 779/Mum/2022*]. The scheme of Section 250 of the Act does not visualize any situation in which an appeal can be summarily dismissed by the CIT(A) disregarding the material on record. Therefore, in view of the aforesaid, we hold that the order, dated 30/04/2024, passed by the CIT(A) is not sustainable in law as the CIT(A) was required to decide the appeal on merits. Accordingly, order dated 30/04/2024, passed by the CIT(A) is set aside and the appeal is restored back to the file of CIT(A) for denovo adjudication as per law. We note that despite several opportunities having been granted, the Appellant had failed to file written submissions and/or place on record relevant documents before the CIT(A). The Appellant is directed to

pursue the appeal diligently and not to seek adjournments unnecessarily. It is clarified that in case the Appellant fails to enter appearance and file submission/documents before the CIT(A), the CIT(A) would be at liberty to decide the appeal on merits based upon the material on record.

4. In terms of above, Ground No. 1 is allowed for statistical purposes while all the other grounds raised in the appeal are dismissed as being infructuous.
5. In result, in terms of paragraph 4 above, the present appeal is allowed for statistical purposes.

Order pronounced on 21.08.2024.

**Sd/-**  
**(Prashant Maharishi)**  
**Accountant Member**

**Sd/-**  
**(Rahul Chaudhary)**  
**Judicial Member**

मुंबई Mumbai; दिनांक Dated : 21.08.2024  
*Patil, Sr.P.S.*

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

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

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

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