

आयकर अपीलीय अधिकरण, मुंबई न्यायपीठ "ई" मुंबई
IN THE INCOME TAX APPELLATE TRIBUNAL "E" BENCH, MUMBAI

BEFORE SHRI SHAILENDRA KUMAR YADAV, JM AND SHRI RAJESH KUMAR, AM

आयकर अपील सं./I.T.A. No.4071/Mum/2013

(निर्धारण वर्ष / Assessment Year :2006-07)

Suresh M Bhathija (HUF), No.12, Dakshin Pali D'Monte Park Road, Bandra (W), Mumbai-400050	बनाम/ Vs.	Income Tax Officer 19(3)(4), Piramal Chambers, Parel, Mumbai-400012.
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

स्थायी लेखा सं./जीआइआर सं./PAN No. :AAAHS8289M

अपीलार्थी ओर से / Appellant by:	Shri Rajiv Khandelwal
प्रत्यर्थी की ओर से/Respondent by	Shri Rajneesh K Arvind

सुनवाई की तारीख / Date of Hearing : 17.8.2016

घोषणा की तारीख /Date of Pronouncement :17.08.2016

आदेश / O R D E R

Per RAJESH KUMAR, Accountant Member:

This is an appeal filed by the assessee and is directed against the order of the Ld. CIT(A)-30, Mumbai dated 19.2.2013 pertaining to A.Y.2006-07.

2. At the time of hearing, the Id.Counsel submitted that the Id.First Appellate Authority has passed ex-parte order without going into the facts and considering the merits of the case while admitting that the assessee could not appear before the said authority despite several opportunities granted due to the reasons beyond the control of the assessee as he was suffering from cardiac problems during the period when the scrutiny proceedings were on and could also not attend the appellate proceedings

before the FAA due to detection of cancer to the assessee. The Id. counsel produced before us copies of various medical certificates Hinduja National Hospital and Medical Research Centre, Jaslok Hospitals and other Hospitals, Mumbai in order to substantiate averments made by the Id.AR during the course of hearing before us. After going through the various certificates issued by the Hospitals mentioned above, we find that the assessee could not attend the hearing before the Id.CIT(A) due to the reasons beyond his control which were bonafide and reasonable. The Id. DR also reasonably appeared to be agreed to the submissions made by the Id.AR that the matter be restored to the file of Id.CIT(A) as the order passed by the Id.CIT(A) is without going into the merits and considering the materials available before him. We, therefore, set aside the order of the Id.CIT(A) and restore the issue to the file of Id.CIT(A) for fresh adjudication on merits after giving fair and reasonable opportunity of being heard to the assessee. We also direct to the assessee to co-operate with the Id.CIT(A) for expeditious disposal of the case.

3. In the result the appeal of the assessee is allowed for statistical purposes.

The above order was pronounced in the open court on 17th Aug, 2016.

घोषणा खुले न्यायालय में दिनांक: 17th Aug, 2016 को की गई ।

Sd/-

(SHAILENDRA KUMAR YADAV)

न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-

(RAJESH KUMAR)

लेखा सदस्य / ACCOUNTANT MEMBER

मुंबई Mumbai: 17th Aug, 2016.

व.नि.स./ SRL , Sr. PS

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)- concerned
4. आयकर आयुक्त / CIT concerned
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई /
DR, ITAT, Mumbai concerned
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

// True Copy //

सहायक पंजीकार (Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई /ITAT, Mumbai

		Date	Initials	
1.	Draft dictated on	17.8.2016		SPS
2.	Draft placed before author	17.8.2016		SPS
3.	Draft proposed & placed before the Second Member			JM
4.	Draft discussed/approved by Second Member			AM
5.	Approved Draft comes to the Sr. PS			SPS
6.	Kept for pronouncement on			SPS
7.	File sent to the Bench Clerk			SPS
8.	Date on which file goes to the Head Clerk			
9.	Date on which file goes to A.R.			
10.	Date of dispatch of order			