

IN THE INCOME TAX APPELLATE TRIBUNAL "E" BENCH, MUMBAI  
**BEFORE SHRI D. KARUNAKARA RAO, ACCOUNTANT MEMBER  
AND SHRI SANDEEP GOSAIN, JUDICIAL MEMBER**  
I.T.A. No.5546/M/2013 (Assessment Year: **2008-2009**)

Shri Shankar M. Fatnani, 2204, Blooming Dale, Hiranandani Estate, Ghodbunder Road, Thane – 421201.	बनाम/ Vs.	Income Tax Officer, Ward 23(1)(1), Mumbai.
स्थायी लेखा सं./PAN : AAFPF6528H		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओर से / Appellant by	:	None
प्रत्यर्थी की ओर से/ Respondent by	:	Ms. Arju Garodia, DR

सुनवाई की तारीख /Date of Hearing : 09.03.2017

घोषणा की तारीख /Date of Pronouncement : 17.03.2017

**आदेश / O R D E R**

**PER D. KARUNAKARA RAO, AM:**

This appeal filed by the assessee on 23.8.2013 is against the order of the CIT (A)-36, dated 27.02.2012 for the assessment year 2008-2009. In this appeal, assessee raised the following grounds which read as under:-

- "1. The order passed by the CIT (A) without giving reasonable opportunity of being heard is bad in law and as such the additions made by the Assessing Officer and confirmed by the Ld CIT (A) may please be deleted.
2. Without prejudice to the above appellant submits that alternatively the order passed by the Ld CIT (A) may be set aside to his file with the directions to decide the appeal afresh after giving reasonable opportunity of being heard."

2. Before us, none appeared on behalf of the assessee to represent its case. On perusal of the order sheet and the relevant documents, we find, as per procedure notice was issued for hearing before the Tribunal for number of times. None appeared on behalf of the assessee despite the service of notice by RPAD. Considering the non-reply of the assessee as well as the grounds raised in the appeal before us, we propose to adjudicate the issue in the following manner.

3. At the time of hearing, Ld DR for the Revenue brought our attention to the above grounds raised in the appeal and submitted that the assessee raised the issue relating to the principles of natural justice with regard to not giving reasonable opportunity of being heard to the assessee and argued that assessee did not attend before the CIT (A) despite issue of notices on various dates ie 09.12.2011; 19.1.2012 and 28.02.2012 etc. The fact of CIT (A) concluding the adjudication in the light of non-cooperation of the assessee was also repeatedly argued by the Ld DR.

4. After hearing the Ld DR and on perusal of the orders of the Revenue Authorities as well as considering the issues raised in the above grounds, we are of the opinion, the matter should be remanded to the file of the CIT (A) for adjudication on merits. Accordingly we order. CIT (A) is directed to give one more opportunity of being heard to the assessee as desired in accordance with the set principles of natural justice. CIT (A) is free to decide issue in the remand proceedings as per the law. With this limited directions, grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open court on 17<sup>th</sup> March, 2017.

Sd/-  
**(SANDEEP GOSAIN)**  
 JUDICIAL MEMBER  
 मुंबई Mumbai; दिनांक 17.03.2017  
 व.नि.स./ OKK, Sr. PS

Sd/-  
**(D. KARUNAKARA RAO)**  
 ACCOUNTANT MEMBER

**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)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR,  
ITAT, Mumbai
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,  
उप/सहायक पंजीकार (Dy./Asstt. Registrar)  
आयकर अपीलीय अधिकरण, मुंबई / **ITAT, Mumbai**