

आयकर अपीलीय अधिकरण, "सी" न्यायपीठ, मुंबई
IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH, MUMBAI
BEFORE SHRI D. KARUNAKARA RAO, AM AND SHRI AMARJIT SINGH, JM

आयकर अपील सं/ I.T.A. No.1837/Mum/11
(निर्धारण वर्ष / Assessment Year: 2002-03)

C2M Technologies (India) Ltd. 10-A, Lalwani Industrial Estate, G.D.Ambedkar Road, Wadala, Mumbai - 400031	बनाम/ Vs.	Dy. Commissioner of Income-Tax Circle 6(2) Aaykar Bhavan, M.K.Road, Mumbai - 400020
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AACCA4322H		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

Assessee by:	Shri Jitendra Singh
Department by:	Shri K. Ravi Kiran

सुनवाई की तारीख / Date of Hearing: 27.05.2016

घोषणा की तारीख /Date of Pronouncement: 03.06.2016

आदेश / ORDER

PER AMARJIT SINGH, JM:

This is an appeal against the order dated 25.11.2010 passed by learned Commissioner of Income Tax (Appeals)-12, Mumbai [hereinafter referred to as the "CIT(A)"] for the assessment year 2002-03 wherein the learned CIT(A) dismissed the appeal in view of the provision contained in section 249(4) of the Income Tax Act, 1961(in short "the Act") because at the relevant time the assessee failed to pay admitted tax.

2. We have heard the arguments advanced by the learned representative of the parties and have gone through the record carefully. This is a second round of the assessee before Tribunal. In the earlier order passed by the Tribunal dated 21.11.2008, the Hon'ble Income Tax Appellate Tribunal has directed the learned CIT(A) to pass the fresh order after giving an adequate opportunity to the assessee because the order was passed against ex-parte. Thereafter, the learned CIT(A) has decided the matter of controversy and passed the order dated 25.11.2010 by arriving at this conclusion that the appeal of the assessee is not liable to be admitted on account of non-furnishing the tax. The learned representative of the assessee has argued that now the controversy is quite clear in view of the law settled in **[2012] 19 taxmann.com 154, High Court of Karnataka, Commissioner of Income Tax III Vs. K. Satish Kumar Singh** wherein it is held the even after the dismissal of the appeal if the tax is paid by the assessee then the appeal is liable to be admitted and decided on merit. Now coming to the instant case the assessee has submitted details of payment of tax for the A.Y.2002-03 at page 3 of the paper book, no doubt it is further required to be verified in accordance with law. The assessee has also filed the copy of challans which has been attached at page 4 to 9 of the paper book which speaks about the payment of the tax to the authority. In view of the above mentioned law passed by the **High Court of Karnataka, Commissioner of Income Tax III Vs. K. Satish Kumar Singh**, we are of the view that when the assessee has paid the admitted tax

even after filing the appeal before First Appellate Authority then the appeal is liable to be decided on merit, therefore, in view of the said law we hereby set aside the order in question and direct the learned CIT(A) concerned to decide the matter afresh on merits in the interest of justice after giving full and adequate opportunity to the assessee in accordance with law.

3. In the result, **appeal of the Assessee is Allowed accordingly.**

Order pronounced in the open court on 3rd June, 2016.

Sd/- Sd/-
(D.KARUNAKARA RAO) (AMARJIT SINGH)
लेखा सदस्य / ACCOUNTANT MEMBER न्यायिक सदस्य/JUDICIAL MEMBER
मुंबई Mumbai; दिनांक Dated : 3rd June, 2016

MP

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.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार (Dy./Asstt. Registrar)

आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai