

IN THE INCOME TAX APPELLATE TRIBUNAL “C” BENCH, MUMBAI

BEFORE SHRI SAKTIJIT DEY, JM AND SHRI MANOJ KUMAR AGGARWAL, AM
ITA No. 4048/Mum/2015
(A Y: 2009-2010)

MR. VALLABH HIRJI PATEL A/101, Safe Field, Anand Nagar, C.S. Road, Dahisar (E), Mumbai – 400 068.	Vs.	INCOME TAX OFFICER 25(1)(2), Pratykashkar Bhavan, Bandra Kurla Complex, Bandra(E), Mumbai – 400051.
PAN: AAJPP4325Q		
Appellant	..	Respondent
Revenue by	..	Shri C.S. Sharma
Assessee by	..	Nonr
Date of hearing		21-09-2016
Date of pronouncement		21-09-2016

ORDER

PER MANOJ KUMAR AGGARWAL (AM) :

The instant appeal has been filed by the assessee for Assessment Year [AY] 2009-10 assailing the order of the Commissioner of Income Tax (Appeals)-35 [CIT(A)], Mumbai dated 18.03.2014 primarily on the ground that adequate opportunity of being heard has not been given to the assessee. The assessee has also assailed confirmation of addition under section 68 of the Income Tax act 1961 on merits.

2. Facts in brief, are that the assessee is a resident individual who filed its return of income for AY 2009-10 declaring total income at Rs.5,91,902/- which was processed under Section 143(3) vide Assessing Officer order dated 08.12.2011. The income was recomputed at Rs.15,93,090/- after making certain additions relating to cash credits. The assessee preferred appeal before CIT(A) but the same was dismissed *ex-parte* vide order dated 18.03.2014. Aggrieved, the assessee is in appeal before us.

3. None has appeared on behalf of the assessee. It has been noticed that the appeal has been filed with the delay of 405 days and assessee has requested for the condonation of the same vide its letter dated 23.06.2015 on the following ground:-

“I’m illiterate assessee having agriculture income and living most of time in my village. My income tax matter was handled by ITP (income tax practitioner), and all the time when I received any notice from Department handed over to ITP. I am not having sufficient knowledge about tax regime.”

Further, the primary grievance of the assessee is that adequate opportunity of being heard has not been provided at the appellate stage so as to contest the impugned additions.

4. Therefore, on the facts and circumstances of the case and in the interest of the Justice, the delay is condoned and the appeal is admitted on merits. Consequently, we deem it fit to restore the matter back to the file of the CIT(A) to provide another opportunity to assessee to present his case. The assessee is hereby directed to cooperate in the proceedings before lower authorities and promptly respond to the notices and provide information / documents called for failing which it shall be open for the CIT(A) to dispose-off the appeal on merits on the basis of material and documents as available on record.

5. The appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 21/09/2016

Sd/-

**(SAKTIJIT DEY)
JUDICIAL MEMBER**

Sd/-

**(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER**

Mumbai, Dated: 21/09/2016
PS:- Pooja K.

Copy of the Order forwarded to:

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

//True Copy//

BY ORDER,

Assistant Registrar
ITAT, MUMBAI