

आयकर अपीलिय अधिकरण, मुंबई न्यायपीठ "एच" मुंबई
IN THE INCOME TAX APPELLATE TRIBUNAL "H" BENCH, MUMBAI
BEFORE SHRI MAHAVIR SINGH, JM AND SHRI RAJESH KUMAR, AM

आयकर अपील सं./ **I.T.A. No 3280/Mum/2015**

(निर्धारण वर्ष / Assessment Year : 2010-11)

Shri Suresh Chimanlal Shah, 2/18, Bay View, South Wing- 15-A, Ridge road, Mumbai-400006	<u>बनाम/</u> Vs.	The Income Tax Officer 16(2), Mumbai.
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अपीलार्थी की ओर से / Applicant by	:	None
प्रत्यर्थी की ओर से/Respondent by	:	Shri M C Omi Ningshen
सुनवाई की तारीख /Date of Hearing	:	14.12.2016
घोषणा की तारीख /Date of Pronouncement	:	20.3.2017

आदेश / ORDER

PER RAJESH KUMAR, A. M:

This is an appeal filed by the assessee and it is directed against the order of the Id.CIT(A), Mumbai, dated 30.3.2015 for the assessment year 2010-11.

2. Despite service of notice through RPAD, none appeared on behalf of the assessee on the date of hearing and hence we are proceeding to decide the appeal ex-parte on the basis of material available before us and after hearing the Id. DR.

3. Grounds of appeal no.1 taken by the assessee is in respect of violation of principle of natural justice and not giving fair and reasonable opportunity of being heard to the assessee and the issue raised in the

remaining grounds pertain to upholding the penalty confirmed by the Id. CIT(A) as imposed by the AO u/s 271(1)(c) of the Income Tax Act, 1961.

4. After hearing Id.DR and on perusal of record, we find that the Id.CIT(A) has decided the appeal ex-parte and therefore the contentions and the arguments of the appellant could not be considered. However, the FAA has passed very detailed order by giving detailed finding for dismissal of the appeal of the assessee as incorporated in para 2.4.1 to 2.4.20. Under these circumstances, in our view, the interest of justice would be met if the assessee is given one more opportunity of being heard before the FAA as no prejudice would be caused to the revenue thereby. Accordingly, we set aside the order of the Id.CIT(A) and restore this appeal to the file of the Id.CIT(A) to be decided denovo after considering various contentions and submissions as may be made by the assessee before the FAA in the set aside proceedings. We also direct the assessee to cooperate with the Id.CIT(A) for speedy disposal of the appeal. The Id.CIT(A) is at liberty to take view possible as per facts and law after giving opportunity to the assessee according to the principle of natural justice.

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

Order pronounced in the open court on 20th March, 2017

Sd

sd

(Mahavir Singh)

न्यायिक सदस्य / **Judicial Member**

(Rajesh Kumar)

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 20. 3.2017

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)
4. आयकर आयुक्त / CIT – concerned
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard File

आदेशानुसार/ BY ORDER,

True copy

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