

**आयकर अपीलीय अधिकरण, मुंबई न्यायपीठ, G, मुंबई ।**

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCHES "G", MUMBAI**

**श्री अमित शुक्ला, न्यायिक सदस्य एवं  
श्री अश्वनी तनेजा, लेखा सदस्य, के समक्ष**

**Before Shri Amit Shukla, Judicial Member, and  
Shri Ashwani Taneja, Accountant Member**

**ITA NOs.6732-34/Mum/2014  
Assessment Years: 2007-08,2008-09 & 2009-10  
&**

**ITA NOs.6744 & 6745/Mum/2014  
Assessment Year: 2008-09**

M/s. Watermark Financial Consultants Ltd. 1009/10 Maker Chambers, V. Nariman Point, Mumbai-400021	<b>बनाम/</b> Vs.	DCIT 3(3) Aayakar Bhavan, Mumbai-400020
(Assessee)		(Revenue)
P.A. No.AAACW3474H		

Appellant by	Shri Sudhir Kambale (AR's Clerk)
Respondent by	Shri A. Ramachandran (DR)

सुनवाई की तारीख/ <b>Date of Hearing:</b>	<b>31/05/2016</b>
आदेश की तारीख / <b>Date of Order:</b>	<b>31/05/2016</b>

**आदेश / O R D E R**

**Per Bench:**

These appeals have been filed by the Assessee against the separate orders of Ld. Commissioner of Income Tax (Appeals), {(in short 'CIT(A)'}, for the Assessment Years 2007-

08, 2008-09 & 2009-10 passed against penalty order u/s 271(1)(c), 271B & 271C of the Act.

**2.** During the course of hearing, arguments were made by Shri Sudhir Kambale on behalf of the Assessee and by Shri A. Ramachandran, Departmental Representative (Ld. DR) on behalf of the Revenue.

**3.** In all these appeals, one common ground has been taken by the assessee with regard to lack of opportunity and violation of principles of natural justice.

**3.1.** It is noted by us that Ld. CIT(A) had passed the order *ex-parte*. It is further noted by us that all these orders have been passed by the Ld. CIT(A) by dismissing the appeal of assessee '*in limini*'. It is noted that these appeals were not disposed on merits. No discussion at all has been made by the Ld. CIT(A) in the order. As per law, Ld. CIT(A) is obliged to dispose of the appeal on merits. It is further noted by us that in the penalty orders also proper representation does not appear to have been made by the assessee. Under these circumstances, we find that justice has not been granted in these cases. Thus, taking into account totality of all these facts and circumstances, we find it appropriate to send all these appeals back to the file of the Ld. CIT(A) for their adjudication on merits. The Ld. CIT(A) shall give adequate opportunity of hearing to the assessee after properly serving the notice at the correct address of the assessee company. The assessee shall

also extend requisite cooperation to Ld. CIT(A) by making proper representation of these cases. The Ld. CIT(A) shall decide these appeals on merits, objectively, after taking into account all the details and evidences and other submissions as may be filed by the assessee. Thus, with these directions, these appeals are sent back to the file of the Ld. CIT(A) to be decided on merits after hearing the assessee.

**4.** In the result, these appeals filed by the assessee are partly allowed for statistical purposes.

Order pronounced in the open court on 31<sup>st</sup> May , 2016.

Sd/-

(Amit Shukla )

न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-

(Ashwani Taneja)

लेखा सदस्य / ACCOUNTANT MEMBER

मुंबई Mumbai; दिनांक Dated : 31/05/2016

*Patel, P.S./नि.स.*

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT, Mumbai.
4. आयकर आयुक्त / CIT(A)- , Mumbai
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