

आयकर अपीलीय अधिकरण " एच" न्यायपीठ मुंबई में।

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "H", MUMBAI**

**BEFORE SHRI C.N. PRASAD, JUDICIAL MEMBER AND
SHRI RAMIT KOCHAR, ACCOUNTANT MEMBER**

ITA NO.5540/MUM/2016 : (A.Y : 2012-13)

Iona Frances Fergusson
1A/28 Tata Milla CHS,
Elphinstone Rd.
Parel
Mumbai – 400 012

Vs. ITO Wd 35(1)(4)
BKC Bandra
Mumbai - 400 0051

PAN : AAMPF0646B

(अपीलार्थी / Appellant)

(प्रत्यर्थी / Respondent)

अपीलार्थी की ओर से / Appellant by : None
प्रत्यर्थी की ओर से Respondent by : Ms. Pooja Swaroop

सुनवाई की तारीख / Date of Hearing : 28/02/2017
घोषणा की तारीख / Date of Pronouncement : 27/04/2017

आदेश / O R D E R

PER C.N.PRASAD (JM)

This appeal is filed by the Assessee against the order of the Ld. CIT (Appeals) -18, New Delhi dated 22.07.2016 for the assessment year 2012-13 arising out of assessment order passed u/s 143(3) of the Act on 26.03.15 by the Income Tax Officer, ward 54(3), New Delhi.

2. In spite of issue of notice, none appeared on behalf of the Assessee. From the perusal of the records, we find that the assessment was completed by the ITO, ward 54(3) of New Delhi and the appeal was disposed of by the

Ld.CIT (Appeals)-18, New Delhi. Before the Ld. CIT (Appeals), the Assessee submitted that she is staying in Mumbai in her permanent residence and application was filed with the Pr.CCIT Delhi for transfer of appeal to Mumbai. However, it appears that the Ld. CIT(Appeals) disposed off the appeal and the Assessee also did not appear before the Ld. CIT (Appeals) in person in the proceedings before him.

3. The Assessee in Form No.36 filed before us submitted that the jurisdiction of the Assessing Officer has been transferred from Delhi to Mumbai and now assessed with ITO Ward 35(1)(4), Mumbai and an order was passed by the Pr.CIT-18, New Delhi u/s 127(2) of the Act on 15.02.2016 to this effect. On perusal of the Ld. CIT (Appeals) order, we find that the Assessee could not appear before the Ld.CIT(Appeals) as she is staying in Mumbai and the proceedings are in Delhi. The Ld. CIT (Appeals) disposed off the appeal without hearing the Assessee. In the circumstances, we are of the view that this matter should go back to Ld. CIT (Appeals) and the Ld. CIT (Appeals) having jurisdiction over the present Assessing Officer i.e. ITO Wd 35(1)(4), Mumbai . Hence, we restore this appeal to the file of the Ld. CIT (Appeals) who shall decide the issue afresh in accordance with law after providing adequate opportunity of being heard to the Assessee.

4. In the result, the appeal of the Assessee is allowed for statistical purpose.

Order pronounced in the open court on the 27th day of April 2017.

Sd/-

(RAMIT KOCHAR)
लेखा सदस्य /
ACCOUNTANT MEMBER

Sd/-

(C.N.PRASAD)
न्यायिक सदस्य /
JUDICIAL MEMBER

मुंबई / Mumbai; दिनांक / Dated 27.04.2017

LR, SPS

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), Mumbai.
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,

सहायक पंजीकार
(Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mum