

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCHES, 'C', MUMBAI

BEFORE SHRI J SUDHAKAR REDDY, ACCOUNTANT MEMBER
AND SHRI VIJAY PAL RAO, JUDICIAL MEMBER

ITA No. 9 and 10/Mum/2010
(Assessment Years: 2007-08 and 2008-09)

The Collector
Dist-Thane
Thane.

.... Appellant

Vs

Income Tax Officer(TDS),
Gr.fl.Qureshi Mansion,
Gokhale road,
Thane-400602.
PAN:PNE0010991G

... Respondent

Appellant by : Shri Satish R Mody
Respondent by : Shri Goni Srinivasan

ORDER

PER VIJAY PAL RAO, JM

These appeals by the assessee are directed against the order dated 04.11.2009 of CIT(A)-II, Thane for the assessment years 2007-08 and 2008-09.

2. The assessee has raised the following grounds in this appeal:

"1. On the facts and in the circumstances of the case and in law, the CIT(A) erred in passing the order without giving proper opportunity of hearing to the appellant.

2. On the facts and in the circumstances of the case and in law, the CIT(A) erred in confirming the order of the assessing officer passed u/s 206C(1C)

and raising the demand of Rs.39,96,710/- with interest u/s 206C(7)”

3. The order of the. CIT(A)-II, Thane be vacated and justice be given to your appellant”

3. We have heard the learned AR as well as the Id. DR and considered the relevant record. Only grievance raised by the assessee before us is that the CIT(A) has not given effective opportunity of hearing to the assessee, which is a State Government Department. Therefore, the learned AR of the assessee pleaded that the impugned order of the Id. CIT(A) be set aside and assessee be given one more opportunity of hearing.

4. On the other hand, the learned DR vehemently opposed the assessee's submissions and submitted that the assessee was given more than sufficient opportunities of hearing by the learned CIT(A) before deciding the appeal of the assessee and therefore the assessee does not deserve for any more opportunity of hearing.

5. After considering the rival contentions and relevant record, we note that though the CIT(A) has decided the appeal of the assessee ex-parte since none appeared before the CIT(A). The CIT(A) has recorded the reasoning in paragraph 2 of the impugned order. In the said paragraph the

CIT(A) has mentioned that the assessee vide letter dated 25.06.2009 stated that "As given to understand on telephone by your office, the charge of your jurisdiction is not yet handed over to the concerned officer and hence fresh notice of hearing will be issued on us in future. We will attend the hearing after the fresh notice is served". Thereby the assessee expressed the difficulties in pursuing the matter in view of the reasons given in its letter dated 25.6.2009. In the present case, the assessee is a State Government Department and the decisions are not taken by in person but by the authority at different levels and sometimes the delay is bound to be happened in taking the decisions. In the case in hand, the assessee did not attend the hearing on 4.11.2009 and therefore the CIT(A) has decided the appeal ex-parte. In the totality of the facts and circumstances of the case and in the interest of justice, we are of the view that the assessee should be given one more opportunity of hearing. Accordingly, we set aside the order of the learned CIT(A) and direct the CIT(A) to grant one more opportunity of being heard to the assessee. We also direct the assessee not to take unnecessary adjournments and co-operate sincerely with the revenue authority for speedy disposal of the appeals.

6. In the result, the appeals of the assessee are allowed for statistical purposes.

Pronounced in the open court on 14.12.2010

Sd

sd

(J.SUDHAKAR REDDY)
ACCOUNTANT MEMBER

(VIJAY PAL RAO)
JUDICIAL MEMBER

Mumbai, on this 14 th day of Dec 2010
SRL:31210

copy to:

1. Appellant
2. Respondent
3. CIT Concerned
4. CIT(A) concerned
5. DR concerned Bench

BY ORDER

True copy

ASSTT. REGISTRAR, ITAT, MUMBAI