

R.M. AMBERKAR
(Private Secretary)

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.**

**INCOME TAX APPEAL (IT) NO. 643 OF 2016
WITH
INCOME TAX APPEAL (IT) NO. 424 OF 2016**

Cheryl J. Patel .. Appellant

Versus

The Assistant Commissioner of Income
Tax, Central Circle -13, Mumbai .. Respondent

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- Mr. Nishit Gandhi for the Appellant
 - Mr. Suresh Kumar for the Respondent
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**CORAM : AKIL KURESHI &
M.S. SANKLECHA, JJ.**

DATE : NOVEMBER 26, 2018.

P.C.:

1. Heard.
2. At the request of the learned counsel for the parties, the appeal is taken up for final disposal.
3. These appeals under Section 260 A of the Income Tax Act, 1961 ("**the Act**" for short), challenge the order dated 21.1.2015 passed by the Income Tax Appellate Tribunal, Mumbai ("**the Tribunal**" for short). These appeals relate to

the Assessment Years 2003-04 and 2004-05. The impugned order is a common order relating to not only the appellant herein but also the appeal filed by her son Mr. Punit J. Patel.

4. The basic issue raised on behalf of the appellant is as under:-

"Whether in the facts and circumstances of the case and in law, the Tribunal was justified in dismissing the assessee's appeal by merely recording that it accepts the view of the (CIT) Appeals?"

5. We find that while discussing various issues, the Tribunal has not given any independent reasons showing consideration of the submissions made on behalf of the assessee. We are conscious of the fact that an appellate order which affirms the order of the lower authority need not be a very detailed order, nevertheless, there should be some indication in the order passed by the appellate authority, of due application of mind to the contentions raised by the assessee in the context of findings of the lower authority which were the subject matter of the challenge before it. In view of above, the interest of justice would be served if the impugned order is quashed and set aside and the appeals are restored to the Tribunal for fresh consideration.

6. Therefore, both the appeals are allowed by way of remand. All contentions are kept open.

[M.S. SANKLECHA, J.]

[AKIL KURESHI, J]