आयकर अपीलीय अधिकरण, मुंबई न्यायपीठ, 'सी' ,मुंबई ।

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

श्री जोगिन्दर सिंह, न्यायिक सदस्य **एवं**
श्री राजेश कुमार, लेखा सदस्य**,** के समक्ष

Before Shri Joginder Singh, Judicial Member, and
Shri Rajesh Kumar, Accountant Member

ITA No.378/Mum/2011
Assessment Year: 1997-98

Central Railway Employee Co-Op. Credit Society Ltd. 65-A, N.M. Joshi Marg, Byculla(West), Mumbai-400027	**बनाम**/ Vs.	Income Tax Officer-17(3)4, Piramal Chambers, Mumbai
(निर्धारिती /Assessee)		(राजस्व /Revenue)
PAN. No.AAATT3547K		

निर्धारिती **की ओर से /** Assessee by	Shri Deepak Tikekar
राजस्व **की ओर से** / Revenue by	Ms. Mahua Sarkar-DR

सुनवाई की तारीख / **Date of Hearing :**	**28/11/2016**
आदेश की तारीख /**Date of Order:**	**02/12/2016**

आदेश / O R D E R

Per Joginder Singh (Judicial Member)

The assessee is aggrieved by the impugned order dated 16/07/2008 of the Ld. First Appellate Authority, Mumbai, on rejection of claim of the assessee society for grant of credit for tax deducted at source from interest amounting to Rs.6,08,426/- by passing an ex-party order by the Ld. Commissioner of Income Tax (Appeal).

2. During hearing of this appeal, the ld. counsel for the assessee, Shri Deepak Tikekar, filed a photocopy of letter showing that on the appointed date of hearing i.e. 10/04/2008, the assessee was directed that the appeal has been adjourned and fresh notice of hearing will be issued. This letter also bearing the seal of the office the Ld. Commissioner of Income Tax (Appeal) along with signature. This factual matrix was not controverted by the ld. DR, Ms. Mahua Sarkar.

2.1. We have considered the rival submissions and perused the material available on record. Without going into much deliberation/merits of the appeal, as canvassed by ld. counsel for the assessee, we find that there is a noting on the photocopy that 'Adj. and fresh notice will be issued', which is duly bearing the seal and signature from the office of the Ld. Commissioner of Income Tax (Appeal). The order was passed on the next day itself i.e. 11/04/2008, meaning thereby, the principle of natural justice demands that no person should be condemned unheard, therefore, we direct the Ld.

Commissioner of Income Tax (Appeal) to adjudicate the appeal of the assessee afresh on merit. Needless to mention here that the assessee be provided due opportunity of being heard. The assessee is at liberty to furnish necessary evidence, if any, in support of its claim. The assessee is directed to approach the office of the First Appellate Authority within one month from the receipt of this order. The Ld. Commissioner of Income Tax (Appeal) is free to adjudicate the appeal of the assessee on a mutually pre decided date. Thus, the appeal of the assessee is allowed for statistical purposes only.

Finally, the appeal of the assessee is allowed for statistical purposes only.

This order was pronounced in the open court in the presence of the ld. representatives from both sides at the conclusion of the hearing on 28/11/2016.

Sd/-	Sd/-
(Rajesh Kumar)	(Joginder Singh)
लेखा सदस्य / ACCOUNTANT MEMBER	**न्यायिक सदस्य** /JUDICIAL MEMBER

मुंबई Mumbai; दिनांक Dated : 02/12/2016

*Shekhar, P.S//*नि.स.

<u>आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to</u> :

1. अपीलार्थी / The Appellant (Respective assessee)
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**