IN THE INCOME TAX APPELLATE TRIBUNAL

"C" BENCH, MUMBAI

BEFORE SHRI G.S. PANNU, ACCOUNTANT MEMBER AND

SHRI AMIT SHUKLA, JUDICIAL MEMBER

ITA no.8550/Mum./2011
Assessment Year : 2008–09)

Concept Pharmaceuticals Ltd.
167, CST Road, Kalina
Santacruz (West) ……..………. Appellant
Mumbai 400 098
PAN – AAACC4440M

v/s

Asstt. Commissioner of Income Tax
Circle–10(1), Aayakar Bhavan ...……..………. Respondent
101, M.K. Road, Mumbai 400 020

Assessee by : None
Revenue by : Shri Premanand J.

Date of Hearing – 09.07.2015	Date of Order – 15.07.2015

O R D E R

PER G.S. PANNU, ACCOUNTANT MEMBER

The present appeal preferred by the assessee is directed against the impugned order dated 26th September 2011, passed by the learned Commissioner (Appeals)–21, Mumbai, for the assessment year 2008–09. The grounds raised by the assessee are as follows:–

"1. The learned CIT(A) erred in dismissing the appeal filed by the appellant on the ground that the appellant does not want to defend its case.

> *2. The learned CIT(A) erred in dismissing the appeal filed without giving sufficient opportunity to the appellant.*
>
> *3. Without prejudice to the aforesaid the learned CIT(A) erred in not adjudicating on the specific grounds raised before him on the basis of the detailed statement of facts filed before him.*
>
> *4. The learned CIT(A) failed to appreciate that the statement of facts filed before him explained the case of the appellant and on that basis he should have adjudicated on the specific grounds raised before him."*

2. Though the present appeal is filed at the instance of the assessee, when the case was called for hearing, neither the assessee nor any of its authorized representatives appeared before us. There is no application for adjournment either. Hence, we proceed to dispose of this appeal after hearing the learned Departmental Representative appeared on behalf of the respondent Revenue.

3. We find that this appeal was dismissed by the first appellate authority for non–prosecution, as before the learned CIT(A), despite providing several opportunities to the assessee, no appearance was made by the assessee. The learned CIT(A), however, while disposing off the appeal, has not considered the provisions of section 250(6) of the Act, which stipulates as under:–

> *"Section 250(6) of the Income Tax Act, 1961*
>
> *(6) The order of the Deputy Commissioner (Appeals)] or, as the case may be, the Commissioner (Appeals)] disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reason for the decision."*

4. Before us also, the assessee has not appeared despite several opportunities given and in our considered opinion, the best course of justice would be served if the matter is restored to the file of the learned CIT(A) for disposing of the issues on merit in accordance with the provisions section 250(6) of the Act. Consequently, we set aside the impugned order passed by the learned Commissioner (Appeals) and restore the issue to the file of the learned CIT(A) for deciding the issues on merit. Similar view has been taken by the Co–ordinate Bench of the Tribunal, Mumbai, in Rushabh Motors Pvt. Ltd. v/s ACIT, ITA no.2884/Mum./2012, 2014 Tax Publisher (DT) 0886 (Mum.) and also by decision of the Tribunal, Mumbai Benches, in VSL Infotainment Ltd. v/s DCIT, 2014 Tax Publisher (DT) 2291 (Mum.), which we respectfully follow.

5. In the result, the assessee's appeal is allowed for statistical purposes.

Order pronounced in the open Court on 15th July 2015.

Sd/-	**Sd/-**
AMIT SHUKLA	**G.S. PANNU**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

MUMBAI, DATED: 15th July 2015

Copy of the order forwarded to:

(1) The Assessee;

(2) The Revenue;

(3) The CIT(A);

(4) The CIT, Mumbai City concerned;

(5) The DR, ITAT, Mumbai;

(6) Guard file.

True Copy
By Order

Pradeep J. Chowdhury
Sr. Private Secretary

(Dy./Asstt. Registrar)
ITAT, Mumbai