

**IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "D" BENCH, AHMEDABAD
[Coram: Pramod Kumar AM and S S Godara JM]**

ITA No. 2720/Ahd/2016
Assessment Year : 2013-14

Laxmanbhai Jivrajbhai PatelAppellant
*M/s. Shree Krishna Vijay Saw Mills,
Lati Bazar Zone-3, Geeta Mandir,
Ahmedabad
[PAN : ABHPP 3999 H]*

Vs.

Dy. Commissioner of Income-taxRespondent
*Circle 5(3)
Ahmedabad*

Appearances by:

JP Shah for the appellant
VK Singh for the respondent

Date of concluding the hearing : 12.10.2017
Date of pronouncing the order : 27.10.2017

O R D E R

Per Pramod Kumar, AM:

1. This appeal challenges learned CIT(A)'s order dated 15.09.2016 summarily dismissing the appeal on the ground that it was not e-filed in time.
2. There is no dispute that the appeal was filed before the CIT(A) on 17.03.2016 in paper form. The assessee did not, however, e-file the appeal electronically until 05.09.2016 when the permissible time limit had already expired. Learned CIT(A) declined to condone the delay and dismissed the appeal summarily. Aggrieved, assessee is in appeal before us.
3. We have heard the rival contentions, perused the material on record and duly considered facts of the case in the light of the applicable legal position.
4. Learned representatives fairly agree that the matter should be remitted to the file of the CIT(A) for fresh adjudication on merits, as, in any event, we are satisfied about the bonafides of delay in filing e-appeal. In this view of the matter, learned counsel's arguments pointing out that the mechanism of e-filing does not have the sanction of the statute, and that, in any event, prescription of Income-tax Rules cannot exceed the framework of the Income-tax Act, need not be adjudicated upon.

The matter stands restored to the file of the CIT(A) with our direction to dispose of the matter on merits, after giving a reasonable opportunity of hearing to the assessee, by way of a speaking order and in accordance with the law. We order so.

5. In the result, appeal is allowed for statistical purposes. Pronounced in the open court today on the 27th October, 2017.

Sd/-

S S Godara
(Judicial Member)

Ahmedabad, the 27th day of October, 2017

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Copies to: (1) The appellant
(2) The respondent
(3) Commissioner
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

Sd/-

Pramod Kumar
(Accountant Member)

By order

TRUE COPY

Assistant Registrar
Income Tax Appellate Tribunal
Ahmedabad benches, Ahmedabad