

**IN THE INCOME TAX APPELLATE TRIBUNAL,
BANGALORE BENCH 'A'**

**BEFORE SHRI N.V VASUDEVAN, JUDICIAL MEMBER
AND
SHRI JASON P BOAZ, ACCOUNTANT MEMBER**

ITA No.2705/Bang/2017
(Asst. Year – 2013-14)

M/s. IPC Packaging Company Private Ltd.,
#4909, 9th Floor, High Point – IV,
Palace Road,
Bangalore- 560001.
PAN: AABCI8890E

. Appellant

Vs.

The Asst. Commissioner of Income-tax,
Circle-3(1)(1),
Bengaluru.

. Respondent

Appellant by : Shri. Ravi Shankar, Adovcate
Respondent by : Shri B.R. Ramesh, JCIT

Date of Hearing : 09-04-2018
Date of Pronouncement : 11-04-2018

ORDER

PER SHRI N.V VASUDEVAN, JUDICIAL MEMBER :

This is an appeal by the assessee against the order dated 9/11/2017 of Commissioner of Income-tax (Appeals) - 3 Bengaluru relating to assessment year 2013-14.

2. The assessee is a company engaged in the business of manufacture and sale of polypropylene woven fabrics. An order of assessment dated 29/3/2016 u/s 143(3) of the Income-tax Act 1961 (Act) was passed by the AO determining the total income of the assessee at loss of Rs.48,37,722/- as against the returned loss of Rs.62,98,827/-. The returned loss was reduced because of disallowance

made by the AO u/s 40(a)(ia) of the Act. Against the addition made by the AO, the assessee filed appeal manually before the CIT(A) on 25/4/2016. As per section 249(1) R.W. Rule 45 of the Income-tax Rules 1962 (Rules), the Assessee was obliged to file appeal in Form No.35, in electronic form. The office of the CIT(A) brought to the notice of the assessee that appeal ought to have been filed in electronic form and not physical form. The appeal was fixed for hearing on 9/11/2017. On that date, the assessee could not satisfy the CIT(A) that an appeal has been filed against order dated 29/3/2016 u/s 143(3) of the Act in electronic form. The CIT(A), therefore, dismissed the appeal of the assessee as it was not in accordance with Rule 45 of the Rules i.e not filed in Electronic Form.

3. Aggrieved by the order of the CIT(A), the assessee has filed the present appeal before the Tribunal.

4. At the time of hearing, it was brought to our notice by the Id counsel for the assessee that the CIT(A) has passed the impugned order on 9.11.2017. On 11/11/2017 the Assessee had already filed appeal in a electronic form. The impugned order was served on the Assessee only on 15.11.2017. Since the Assessee did not attend the hearing on 9.11.2017, he was not aware of the dismissal of the appeal and also could not bring to the notice of the CIT(A) that appeal had been filed in electronic form. A copy of the acknowledgment for filing appeal in electronic form was also filed before us. In view of the above, the Id counsel for the assessee submitted that the order of the CIT(A) should be set aside and the appeal of the assessee filed in electronic form should be treated as an appeal filed by the assessee and decided on merits.

5. Learned DR relied on the order of the CIT(A).

6. We have considered the rival submissions and are of the view that it would be just and appropriate to set aside the order of the CIT(A) and direct the CIT(A) to treat the appeal filed by the assessee in electronic form on 11/11/2017 as an appeal filed by the assessee against the order u/s 143(3) dated 29/3/2016. The CIT(A) is directed to decide the appeal in accordance with law after affording the assessee an opportunity of being heard. The appeal of the assessee is treated as allowed for statistical purposes.

7. In the result, the appeal by the Revenue is treated as allowed for statistical purpose.

Order pronounced in the open court on 11th April, 2018.

Sd/-
(JASON P BOAZ)
ACCOUNTANT MEMBER

Sd/-
(N.V VASUDEVAN)
JUDICIAL MEMBER

Bangalore
Dated :11/4/2018
Vms

Copy to :1. The Assessee
2. The Revenue
3.The CIT concerned.
4.The CIT(A) concerned.
5.DR
6.GF

By order

Sr. Private Secretary, ITAT, Bangalore

1. Date of Dictation
2. Date on which the typed draft is placed before the dictating Member
3. Date on which the approved draft comes to Sr. P. S.....
4. Date on which the fair order is placed before the dictating Member
5. Date on which the fair order comes back to the Sr. P.S.
6. Date of uploading the order on website.....
7. If not uploaded, furnish the reason for doing so
8. Date on which the file goes to the Bench Clerk
9. Date on which order goes for Xerox & endorsement.....
10. Date on which the file goes to the Head Clerk
11. The date on which the file goes to the Assistant Registrar for signature on the order
12. The date on which the file goes to dispatch section for dispatch of the Tribunal Order
13. Date of Despatch of Order.