

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'A' अहमदाबाद ।

**IN THE INCOME TAX APPELLATE TRIBUNAL
"A" BENCH, AHMEDABAD**

**BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER
& SMT. MADHUMITA ROY, JUDICIAL MEMBER**

आयकर अपील सं./I.T.A. No. 1927/Ahd/2017

(निर्धारण वर्ष / Assessment Year : 2011-12)

Vinodkumar S. Totla 201, Prathmesh Apartment, Near Chapaner Society, Ushmanpura, Ahmedabad	बनाम/ Vs.	ITO, Ward-7(1)(4), Nature View Building, Off. Ashram Road, Ahmedabad
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAVPT3335J		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से /Appellant by :	Shri S. N. Divatia, A.R.
प्रत्यर्थी की ओर से / Respondent by :	Shri Saurabh Singh, Sr. D.R.

सुनवाई की तारीख / Date of Hearing	20/06/2018
घोषणा की तारीख /Date of Pronouncement	05/07/2018

आदेश/ORDER

PER PRADIP KUMAR KEDIA - AM:

The captioned appeal has been filed at the instance of the assessee against the order of the CIT(A)-7, Ahmedabad ('CIT(A)' in short), dated 31.05.2017 arising in the assessment order dated 30.12.2013 passed by the Assessing Officer (AO) u/s. 143(3) of the Income Tax Act, 1961 (the Act) concerning assessment year 2011-12.

2. In the captioned appeal, the assessee is aggrieved by the action of the CIT(A) in dismissing the appeal before it as defective and non-maintainable and thus refused to adjudicate the appeal on merits.

3. On perusal of the order of the CIT(A), it is noticed that the assessee had filed paper appeal manually before CIT(A) instead of filing appeal electronically as amended under Rules 45 of I.T. Rules 1962 w.e.f. 01/03/2016. The CIT(A) thus observed that it was incumbent upon the assessee to file appeal electronically to pursue remedy available before him. The CIT(A) thereafter observed that the case of the assessee is covered by provisions of section 249 r.w.Rule 45 of I.T.Rules, 1962 which lays down that every appeal shall be filed in the prescribed form and shall be verified in the prescribed manner. The CIT(A) accordingly found that the paper appeal so filed by the assessee is defective appeal and non-maintainable for adjudication of appeal. The CIT(A) accordingly dismissed the appeal of the assessee as defective and non-maintainable.

4. In the context, we note that the assessee has duly filed the appeal manually which was receipted by the office of the CIT(A) on 23/08/2016. We also take note of the fact that assessee had requested the CIT(A) to allow it to file appeal electronically with a request for condonation of delay. In these circumstances and having regard to the fact that e-filing was introduced about that time in the vicinity of paper appeal filed by the assessee, it is quite possible that assessee may not be conversant with technical aspects. The breach committed by the assessee is clearly of technical nature. We are thus of the considered opinion that a benign view be taken in the circumstances. Therefore, we consider it appropriate to grant opportunity to assessee to enable it to file appeal electronically before the CIT(A) in accordance with law. We thus direct the CIT(A) to admit the appeal for its disposal on merits.

5. The assessee therefore shall be entitled to file the appeal electronically afresh (if not filed so far) within 30 days of service of

this order for adjudication on merits. Intervening technical delay in filing the appeal as per the prescribed method stands condoned.

6. In the result, appeal of the assessee is allowed for statistical purposes.

This Order pronounced in Open Court on 05/07/2018

Sd/-
(MADHUMITA ROY)
JUDICIAL MEMBER
Ahmedabad: Dated 05/07/2018

Sd/-
(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

True Copy

S. K. SINHA

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. राजस्व / Revenue
2. आवेदक / Assessee
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद /
DR, ITAT, Ahmedabad
6. गार्ड फाइल / Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण, अहमदाबाद ।