

**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA BENCH (SMC), KOLKATA
[Before Shri P.M. Jagtap, Hon'ble Vice - President]**

**I.T.A. No. 1506/Kol/2018
Assessment Year : 2014-15**

M/s. Dakshin Chatra F.L. On Shop.....Appellant
Dakshin Chatra, Baduria,
24-Pgs (N) – 743 247.
[PAN : AAFFD 6571 N]

ITO Ward 49(1) Kolkata.....Respondent
Manicktala Civic Centre,
Uttrapan Complex,
Kolkata – 700 054.

Appearances by:

Shri Soumitra Choudhury, Adv. appearing on behalf of the Assessee.
Shri Satyajit Mondal, Addl. CIT appearing on behalf of the Revenue.

Date of concluding the hearing : November 22, 2018

Date of pronouncing the order : November 28, 2018

ORDER

This appeal filed by the assessee is directed against the order of Ld. CIT (Appeals) – 16, Kolkata dated 28.05.2018 passed ex-parte whereby he dismissed the appeal of the assessee on the ground that the same was filed manually and not electronically.

2. The assessee in the present case is a partnership firm which is engaged in the business of trading of wine. The return of income for the year under consideration was filed by it on 30.09.2014 declaring a total income of Rs. 2,26,010/-. In the assessment completed u/s 143(3) vide an order dated 22.12.2016, the total income of the assessee was determined by the AO at Rs. 25,46,033/- after making the following additions:

<i>1. Discrepancy in purchases</i>	<i>Rs. 13,59,539/-</i>
<i>2. Undisclosed sale</i>	<i>Rs. 77,358/-</i>
<i>3. Disallowance of excess expenses</i>	<i>Rs. 9,365/-</i>
<i>4. Disallowance of cash purchase</i>	<i>Rs. 8,70,262/-</i>
<i>5. Inadmissible Expenses</i>	<i>Rs. 3,500/-</i>

3. Against the order passed by the AO u/s 143(3), an appeal was filed by the assessee before the Ld. CIT(A) disputing the various additions made by the AO. Since the said appeal was filed by the assessee manually and not electronically as mandated by the relevant Income Tax Rules, the Ld. CIT(A) treated the same as non-est. He accordingly dismissed the same in limine without going into the merits of the case. Aggrieved by the order of the Ld. CIT(A), the assessee has preferred this appeal before the Tribunal.

4. I have the arguments of both the sides and also perused the relevant material available on record. As noted at the outset, the registry of ITAT has raised an objection pointing out a defect in this appeal of the assessee in paying the appeal fees of only Rs. 500/- instead of Rs. 10,000/-. In this regard, the learned counsel for the has contended that the Ld. CIT(A) vide his impugned order passed ex-parte has disposed of the appeal of the assessee in limine by treating the same as non-est without going into the merits of the case and since such order falls within clause (d) of section 253(6), the fees payable by the assessee for filing the appeal before the Tribunal is only Rs. 500/-. Since this contention raised by the learned counsel for the assessee is duly supported by the decision of Hon'ble Karnataka High Court in the case of Rajakamal Polymers (P) Ltd. 158 TAXMAN 120 (Karnataka), I find that there is no defect in this appeal of the assessee and now proceed to dispose of the same.

5. As submitted by the learned counsel for the assessee, the appeal for the year under consideration against the order dated 22.12.2016 passed u/s 143(3) was also filed by the assessee before

the Ld. CIT(A) electronically on 19.04.2018 but the Ld. CIT(A) has failed to take cognizance of the same. He has contended that the Ld. CIT(A) may therefore be directed to dispose of the appeal of the assessee filed electronically on merit after giving the assessee a sufficient opportunity of being heard. Since the learned DR has also not raised any objection in this regard, I set aside the impugned order of the Ld. CIT(A) and direct him to dispose of the appeal of the assessee filed electronically on 19.04.2018 on merit after giving the assessee proper and sufficient opportunity of being heard.

6. In the result, the appeal of the assessee is treated as allowed for statistical purpose.

Order Pronounced in the Open Court on 28th November, 2018.

Sd/-

(P.M. Jagtap)
Vice - President

Dated: 28/11/2018

Biswajit, Sr. PS

Copy of order forwarded to:

1. M/s. Dakshin Chatra F.L. On Shop, Dakshin Chatra, Baduria, 24-Pgs (N) – 743 247.
2. ITO Ward 49(1), Manicktala Civic Centre, Uttrapan Complex, Kolkata – 700 054.
3. The CIT(A)
4. The CIT
5. DR

True Copy,

By order,

Assistant Registrar
ITAT, Kolkata Benches
Kolkata