

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'A' अहमदाबाद ।

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

**BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER
& SHRI MAHAVIR PRASAD, JUDICIAL MEMEBR**

आयकर अपील सं./I.T.A. No. 359/Ahd/2017

(निर्धारण वर्ष / Assessment Year : 2012-13)

Roselabs Polymers Limited 6-7, Vireshwar Estate, Survey No.-4-15p Kerala, N H-8, Bavla Bagodara Road, Ahmedabad-382020	बनाम/ Vs.	Dy. Commissioner of Income Tax Circle 3(1)(2), Ahmedabad
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAFCR2445A		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से /Appellant by :	Shri Sagar Vasoya, A.R.
प्रत्यर्थी की ओर से / Respondent by :	Smt. Aparna Agarwal, CITD.R.

सुनवाई की तारीख / Date of Hearing	04/12/2018
घोषणा की तारीख /Date of Pronouncement	19/12/2018

आदेश/ORDER

PER PRADIP KUMAR KEDIA - AM:

The captioned appeal has been filed at the instance of the assessee against the order of the Commissioner of Income Tax (Appeals)-9, Ahmedabad ('CIT(A)' in short), dated 09.11.2016 arising in the assessment order passed under s. 143(3) of the

Income Tax Act, 1961 (the Act) concerning assessment year 2012-13.

2. When the matter was called for hearing, learned AR for the assessee at the outset pointed out that appeal memo in Form No.36 and grounds of appeal annexed thereof are required to be drastically revised to rectify the errors. The learned AR for the assessee pointed out that the assessee under mistake has referred the assessment year as AY 2013-14 in the appeal memo instead of AY 2012-13. Similarly, the grounds of appeal raised are required to be replaced and revised in tune with the assessment order and the order of the first appellate authority concerning AY 2012-13. The learned AR pointed out that the grounds placed altogether with the appeal memo are totally alien to the subject matter of the dispute. The learned AR accordingly sought permission of the bench for revision of the appeal memo and the grounds of appeal and consequential documentation in this regard as may be required.

3. We have weighed the submissions on behalf of the assessee. We find that the errors committed by the assessee while filing the appeal are fundamental in nature. Such defects in disclosing correct assessment year and the correct nature of grievance cannot

be regarded as merely procedural. Such defects are substantive in nature and require a complete over-haul. Therefore, such defects cannot be characterized as curable defects. Accordingly, the appeal filed by the assessee is required to be dismissed *in limine*. However, as fairly pleaded on behalf of the assessee, the assessee would be at liberty to file a fresh appeal memo giving correct particular of the assessment year and issues involved for adjudication, if so advised for disposal thereof in accordance with law.

4. In the result, appeal of the assessee is dismissed.

This Order pronounced in Open Court on 19/12/2018

Sd/-
(MAHAVIR PRASAD)
JUDICIAL MEMBER
Ahmedabad: Dated 19/12/2018

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 ।