

**IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH : BANGALORE**

**BEFORE SHRI N. V. VASUDEVAN, VICE PRESIDENT AND
SHRI B. R. BASKARAN, ACCOUNTANT MEMBER**

ITA No.1990/Bang/2018
Assessment year :2013-14

M/s. TS Interseats India Pvt. Ltd., Survey No. 49, 50, 51, 52, 54/1 & 54/2, Narasapura Industrial Area, Jakkasandra Village, Malur Taluk, Kolar, Karnataka – 563 130. PAN :AAECT 0736 B	Vs.	The Deputy Commissioner of IncomeTax, Circle-7(1)(1), Bangalore.
APPELLANT		RESPONDENT

Assessee by	:	Shri.B. R. Sudheendra, Advocate
Revenue by	:	Shri. R. N. Siddappaji, Addl. CIT

Date of hearing	:	20.02.2019
Date of Pronouncement	:	21.02.2019

ORDER

Per B. R. Baskaran, AccountantMember

The appeal filed by the assessee is directed against the order dated 06.04.2018 passed by learned CIT(A)-7, Bangalore and it relates to Assessment Year 2013-14. The assessee is aggrieved by the decision of the learned CIT(A) in dismissing the appeal of the assessee in limine, on the ground that the same is barred by limitation.

2. The learned Counsel appearing for the assessee submitted that the assessee received the assessment order of the year under consideration on 29.03.2016 and it filed the appeal before the CIT(A) manually on 28.04.2016, i.e., within the period of limitation. Later it came to the knowledge of the assessee that the appeal has to be filed electronically and accordingly the assessee filed the appeal electronically on 03.01.2017 which resulted in a delay of 256 days. He submitted that the learned CIT(A) has dismissed the appeal of the assessee on the ground that the appeal filed by the assessee is barred by limitation. He submitted that the Ld CIT(A) did not consider the fact that the assessee had filed the appeal manually within the time. Accordingly he submitted that the delay in filing of the appeal electronically may kindly be condoned and the matter may be decided on merits. On the contrary, the learned DR placed reliance on the order passed by the learned CIT(A).

3. We heard the parties and perused the record. We notice that an identical issue was considered by the Co-ordinate Bench in the case of WeP Solutions India Ltd., Vs. ITO (ITA No.480/Bang/2018 dated 13.04.2018) wherein the Co-ordinate Bench has expressed the view that the appeal of the assessee cannot be rejected on the ground that it was not filed electronically but was filed manually. For the sake of convenience, we extract the operative portion of the order passed by the Co-ordinate Bench in the above said case:

“3. Having carefully examined the orders of the lower authorities in the light of rival submissions, we find that in order to facilitate filing of the appeals, the government has made the necessary changes in the rules for filing the appeals electronically but that does mean that if electronically filing of the appeal is not possible, the assessee cannot

file the appeal manually. We have not found any provision in the Act which deprives assessee from filing the appeal manually after particular date. If the appeal is filed manually, the same should have been disposed by the CIT(A) or atleast he can ask the assessee to upload the appeal online also besides filing manually. But he cannot reject the appeal of the assessee on the ground that it was not filed electronically and was filed manually. I, therefore, set aside the order of the CIT(A) and restore the matter to his file with a direction to adjudicate the appeal on merit by passing a reasoned order after affording opportunity of being heard to the assessee. If need be, assessee may be directed to file appeal electronically also.”

4. In the instant case, the assessee has filed the appeal manually for the above said year within the limitation period and the delay has occurred only in filing the appeal once again electronically. In the case of WeP Solutions India Ltd (supra), the Co-ordinate Bench has expressed the view that the appeal cannot be rejected for the reason that it was filed manually. Hence, we are of the view that the delay in filing appeal electronically should not come in the way of rendering justice to the assessee. Accordingly, we are of the view that the delay that occurred in filing the appeal electronically deserves to be condoned.

5. From the order passed by Ld CIT(A), we notice that the learned CIT(A) has issued the notice to the assessee fixing the case for hearing on 13.03.2018. Since the assessee filed an adjournment letter, the learned CIT(A) re-fixed the appeal on 23.03.2018. However, on the said date, the assessee did not appear before the learned CIT(A) and hence the learned CIT(A) was constrained to pass the impugned ex-parte order. At the time of hearing, the Bench asked a specific query as to why the assessee did not appear before the learned CIT(A) on 23.03.2018. However, no convincing explanation was furnished by the learned AR. Under these set of facts, we are of the view that the present appeal of the assessee

should be adjudicated on certain terms. Accordingly, we impose a cost of Rs.5,000/- (Rupees Five Thousand) upon the assessee which shall be paid to the credit of Income tax department, within one month from the date of receipt of this order.

6. Subject to the payment of cost mentioned above, we set aside the order passed by Ld CIT(A), condone the delay in filing the appeal electronically and restore all the matters to the file of the learned CIT(A) for adjudicating them afresh after affording adequate opportunity of being heard to the assessee.

7. In the result, appeal filed by the assessee is treated as allowed for statistical purposes.

Order pronounced in the open court on this 21st day of February, 2019.

Sd/-

(N. V. VASUDEVAN)
Vice President

Sd/-

(B. R. BASKARAN)
Accountant Member

Bangalore.

Dated: 21st February, 2019.

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| 1. Appellants | 2. Respondent |
| 3. CIT | 4. CIT(A) |
| 5. DR | 6. Guard file |

By order

Assistant Registrar,
ITAT, Bangalore.