

IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCH "B", HYDERABAD

BEFORE V. DURGA RAO, JUDICIAL MEMBER
AND
SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER

	ITA No. 939/Hyd/2018		
	Assessment Year: 2013-14		
Nittala Srinivasa Rao, Hyderabad. PAN: ABMPR 8991 E	Vs.	Income Tax Officer, Ward-11(4), Hyderabad.	
(Appellant)		(Respondent)	
Assessee by:	Sri K.C. Devdas		
Revenue by:	Sri Rajeev Benjwal, DR		
Date of hearing:	05/03/2019		
Date of pronouncement:	13/03/2019		

ORDER

PER V. DURGA RAO, J.M.:

This appeal is filed by the assessee for the Assessment Year 2013-14 against the order of the CIT(A)-5, Hyderabad on 22/02/2018.

2. Brief facts of the case are that the assessee-company, engaged in the business of manpower supply, filed its return of income for the assessment year 2013-14 on 20/12/2013 declaring an income of Rs. 15,99,003/-. During the assessment proceedings, since the assessee could not produce any books of account in support of contract gross receipts as per 26AS, the A.O. estimated the net profit on the above contract receipts @ 8% net of all expenses including depreciation which

works out to Rs. 46,56,342/- and brought it to tax and the assessed income was determined at Rs. 61,55,344/-.

3. Aggrieved, assessee filed an appeal manually, before the CIT(A). The CIT(A), observing that the assessee is required to file the appeal electronically, has dismissed the same *in limine* treating the appeal as non-est.

4. Against the said order, the assessee is in appeal before us by raising the following grounds of appeal:-

- “1. *The order of the CIT(A) is erroneous in law as well as facts of the case.*
2. *The Hon’ble CIT(A) ought to have allowed an opportunity to the assessee before dismissing the appeal filed.*
3. *The Hon’ble CIT(A) ought to have observed that non-filing of appeal on e-filing was not intentional but only to ignorance of changed provision and hence ought to have informed the assessee before dismissing the appeal.*
4. *Without prejudice to the above, the Hon’ble CIT(A) ought to have decided other grounds raised in appeal irrespective of the observation with regard to non-e filing of appeal.”*

5. The Learned Counsel for the Assessee submitted that this was the first year in which the assessee was required to file the appeal electronically, but the assessee has filed the appeal manually within the time limit prescribed in the Statute. He prayed for one more opportunity for filing the appeal electronically and the appeal be decided on merits.

6. The Learned Departmental Representative, on the other hand, supported the order of the CIT(A).

7. Having regard to the rival contentions and the material on record, we find that this is the first year where the assessee was required to file the appeal electronically, but the assessee had filed the appeal within the time before the CIT(A) manually. Therefore, we are inclined to allow the assessee to file its appeal electronically and direct the CIT(A) to dispose of such an appeal on merits after giving the assessee an opportunity of being heard.

8. In the result, assessee's appeal is treated as allowed for statistical purposes.

Pronounced in the open Court on 13th March, 2019.

Sd/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Hyderabad, Dated: 13th March, 2019

OKK

Copy to:-

1)	B. Narsing Rao & Co., Chartered Accountants, Plot No.554, Road No.92, Jubilee Hills, Hyderabad - 96.
2)	ITO, Ward-11(4), Hyderabad.
3)	The CIT(A)-5, Hyderabad
4)	The Pr. CIT-5, Hyderabad
5)	The DR, ITAT, Hyderabad
6)	Guard File