

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL,
INDORE BENCH, INDORE
BEFORE HON'BLE KUL BHARAT, JUDICIAL MEMBER
AND HON'BLE MANISH BORAD, ACCOUNTANT MEMBER

ITA No.581/Ind/2017

Assessment Year 2015-16

M/s. Bhatia Coke & Energy Ltd, 8/5, Manoramaganj, BCC House, Navratan Bagh Main Road, Indore	Vs.	DCIT, Range-1(1), Indore
(Revenue)		(Respondent)
PAN No.AADCB770A		

Revenue by	Shri K.G. Goel, Sr.DR
Assessee by	Shri Thribhuvan Sachedeva, Adv
Date of Hearing	28.03.2019
Date of Pronouncement	01.04.2019

ORDER

PER MANISH BORAD.

The above captioned appeal is filed at the instance of the assessee pertaining to Assessment Years 2015-16 and is directed against the orders of Ld. Commissioner of Income Tax (Appeals)-13 (in short 'Ld.CIT(A)'], Ahmedabad dated 31.05.2017 which is arising out of the order u/s 201(1) & 201(1)(a) of the Income Tax Act

1961(In short the 'Act') dated 29.09.2015 framed by ITO, Intl. Taxn
& T.P, Bhopal.

2. Assessee has raised following grounds of appeal;

"1. That on the facts and circumstances of the case Ld. Jurisdictional CIT (A)-13, Ahmedabad has erred in dismissing the appeal on the ground that e-filing of appeal before CIT (A) is compulsory w.e.f. March 1, 2016 without appreciating the fact that the assessee has filed manual appeal to CIT (A)-1, Indore on 17/02/2016 much before the CBDT notification mandating compulsory e-filing of appeal before CIT (A).

2. That the order so passed is bad in law and wrong.

3. That the assessee craves your honors permission to add alter or delete any grounds of appeal."

3. At the outset Ld. Counsel for the assessee referring to the grounds mentioned that as the Ld. CIT(A) has not passed the order on merits and merely dismissed the assessee's appeal just for not e-filing the appeal. He prayed that Ld. CIT(A) may be directed to admit the manually filed appeal and adjudicate the issues raised on merits.

4. Per contra Departmental Representative did not raised any objection if the directions are issued to Ld. CIT(A) for admitting the manual appeal and adjudicating the grounds raised therein afresh.

5. We have heard rival contentions and perused the records placed before us. Facts in brief are that the assessee is a private limited company. For the alleged default in deducting the tax at source u/s 195 of the Act an order u/s 201(1)/201(1a) of the Act was framed on 11.1.2016 raising demand of Rs.53,070/-(including interest of Rs.7320/-) for default in deducting tax at source on amount of Rs.3,05,000/- remitted outside India for making payment to Platts Mcgraw Hill Financial, USA for benchmark price assessment for the energy, petro chemicals, metals and agriculture market. This payment was claimed by the assessee to have been made for subscription fees for updates from international coal markets.

6. Against the order of the Ld. A.O, International Taxation & DP, Bhopal dated 11.1.2016 assessee filed an appeal manually in the prescribed form on 17.2.2016 to Ld. CIT(A)-I, Indore. The appeal was instituted before Ld. CIT(A)-13, Ahmedabad on 18.4.2016 and he on observing that as per the Income Tax Act Third Amendment Rules 2016, Rule 45 of the Income Tax 1962 have been amended

thereby mandating compulsory filing the electronic returns before Appellate Commissioner w.e.f. 1.3.2016, dismissed the appeal of the assessee by treating the manually filed appeal as invalid.

7. On perusal of the records we find that the assessee filed the appeal manually in Form-35 along with the grounds and other necessary documents on 17.2.2016 with the Office of the Commissioner of Income Tax(Appeals)-I, Indore. The amendment mandating the filing of appeal in e-form is effective from 1.3.2017. We therefore in the given facts and circumstances of the case and in the interest of justice are of the opinion that the assessee's manually filed appeal should be treated as a valid appeal and admitted accordingly. Further Ld. CIT(A) is directed to adjudicate the grounds raised by the assessee in the appeal filed manually on 17.2.2016 and decide the issues on merits after providing reasonable opportunity of being heard to the assessee.

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

The order pronounced in the open Court on 01.04.2019.

Sd/-

Sd/-

(KUL BHARAT)
JUDICIAL MEMBER

(MANISH BORAD)
ACCOUNTANT MEMBER

दिनांक /Dated : 1st April, 2019

/Dev

Copy to: The Appellant/Respondent/CIT concerned/CIT(A)
concerned/ DR, ITAT, Indore/Guard file.

By Order,
Asstt.Registrar, I.T.A.T., Indore