

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "D" MUMBAI**

**BEFORE SHRI SAKTIJIT DEY (JUDICIAL MEMBER) AND
SHRI N.K. PRADHAN (ACCOUNTANT MEMBER)**

**ITA No. 3382/MUM/2018
Assessment Year: 2011-12**

Dishant Organics Pvt.
Ltd., Office No. 22,
Ground Floor, Gokul
Shopping Centre, S.V.
Road, Borivali (West),
Mumbai-400092.

PAN No. AABCD8378A

Appellant

Vs. Income Tax Officer-
12(2)(1), Aayakar Bhavan,
Maharshi Karve Marg,
Mumbai-400020.

Respondent

Assessee by : Smt. Komal Trivedi, AR
Revenue by : Shri D.G. Pansari, DR

Date of Hearing : 09/07/2019
Date of pronouncement : 10/07/2019

ORDER

PER N.K. PRADHAN, AM

This is an appeal filed by the assessee. The relevant assessment year is 2011-12. The appeal is directed against the order of the Commissioner of Income Tax-20, Mumbai [in short 'CIT(A)'] and arises out of the assessment completed u/s 143(3) of the Income Tax Act 1961, (the 'Act').

2. In the ground raised in this appeal, the assessee submits that the Ld. CIT(A) failed to condone the delay in e-filing the appeal when the manual appeal was filed in time. Without prejudice to the above, it is further submitted by the assessee that the Ld. CIT(A) erred in confirming the addition made by the Assessing Officer (AO) of

Rs.1,37,70,080/- being 25% of the alleged bogus purchase of Rs.5,50,80,322/-.

3. Briefly stated, the facts are that the assessee filed appeal manually in paper form on 27.05.2016 before the Ld. CIT(A) against the order dated 28.03.2016 passed by the AO u/s 143(3) of the Act. The Ld. CIT(A), referring to the Notification No. S.O.637(E) dated 01.03.2016 issued by the Central Board of Direct Taxes (CBDT), New Delhi, observed that e-filing of appeal before the Appellate Commissioner is compulsory w.e.f. 01.03.2016 in respect of all persons who are required to furnish their return of income electronically. Since the assessee is a company and it filed its appeal after 01.03.2016 not electronically, the Ld. CIT(A) treated the appeal filed manually as non-est and dismissed the appeal for statistical purpose.

4. Before us, the Ld. counsel of the assessee submits that in the instant case, the appeal was filed within the time prescribed as per the Act and the e-filing of the said appeal was only a technical default which was subsequently rectified by the assessee. In this regard, the Ld. counsel files a copy of the order of the Tribunal in the case of *Pragna Manish Chheda v. ITO* (ITA No. 1631/Mum/2018 for AY 2010-11) and *All India Federation of Tax Practitioners v. ITO* (ITA No. 7134/Mum/2017 for AY 2013-14).

On the other hand, the Ld. DR supports the order passed by the Ld. CIT(A).

5. We have heard the rival submissions and perused the relevant materials on record. We find that the above issue is squarely covered in favour of the assessee by the order of the Co-ordinate Bench in the

aforementioned orders. To recapitulate, in the instant case, the assessment order was passed by the AO on 28.03.2016. The assessee filed an appeal against the order of the AO before the Ld. CIT(A) manually in paper form on 27.05.2016. Being informed by the office of the Ld. CIT(A) that e-filing is mandatory w.e.f. 01.03.2016, the assessee e-filed the appeal on 28.03.2018.

Thus following the decision of the Co-ordinate Bench in the cases mentioned hereinabove, we direct the Ld. CIT(A) to admit the aforesaid appeal of the assessee and pass an order on the merits of the case. Needless to say, the assessee should be granted adequate opportunity of being heard.

6. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 10/07/2019

Sd/-
(SAKTIJIT DEY)
JUDICIAL MEMBER

Sd/-
(N.K. PRADHAN)
ACCOUNTANT MEMBER

Mumbai;

Dated: 10/07/2019

Rahul Sharma, Sr. P.S.

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. The CIT(A)-
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,

(Sr. Private Secretary)
ITAT, Mumbai