



ITA No.3885/Mum/2018
SAP Properties Private Limited
Assessment Year :2010-11

आयकर अपीलीय अधिकरण “जी” न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“G” BENCH, MUMBAI

माननीय श्री सी. एन. प्रसाद, न्यायिक सदस्य एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON’BLE SHRI C.N. PRASAD, JM AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं./ I.T.A. No.3885/Mum/2018
(निर्धारण वर्ष / Assessment Year: 2010-11)

SAP Properties Private Limited 101A Floor, 30D Ruby Mahal Cawasji Patel Street Fort, Mumbai-400 001.	बनाम/ Vs.	Income tax Officer Ward 1(3)(3) Aaykar Bhavan, M.K. Road Mumbai-400 020
स्थायी लेखा सं./जी आइ आर सं./PAN/GIR No. AALCS-2663-M		
(□ पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	None
Revenue by	:	Chaudhary Arun Kumar Singh - Ld. DR

सुनवाई की तारीख/ Date of Hearing	:	19/08/2019
घोषणा की तारीख / Date of Pronouncement	:	19/08/2019

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. The grievance of the assessee in this appeal stem from the fact that Ld. first appellate authority has dismissed the assessee’s appeal on technical ground since the appeal was filed manually, which as per the extant Rule 45 of *Income Tax Rules*, was required to be *e-filed* in the prescribed manner. The date of the impugned order is 26/03/2018.



2. When the appeal was called for hearing, none appeared for assessee. No valid adjournment application is on record and therefore, the appeal is proceeded with *ex-parte qua* the assessee.

3. Facts on record would reveal that the assessee has been assessed u/s 143(3) read with Section 263 of Income Tax Act, 1961 on 15/03/2016 wherein the assessee was saddled with addition of Rs.2 Crores u/s 68. The assessee preferred appeal against the same before first appellate authority manually in paper form on 12/04/2016 which is well within time prescribed for preferring the appeal against the assessment order. However, since the appeal was filed in paper form, which as per amended Rule 45 effective from 01/03/2016 was required to be filed electronically, Ld. first appellate authority treated the same as invalid appeal and dismissed the same without any further adjudication. Aggrieved, the assessee is in further appeal before us assailing the stand taken by learned first appellate authority.

4. Upon careful consideration, the undisputed facts that emerges are that the appeal was preferred by the assessee manually in paper form and the same was well within time prescribed for filing the appeal. It also appears from the grounds of appeal raised by the assessee that the appeal has subsequently been e-filed on 13/06/2016 in due compliance of CBDT Circular No. 20/2016 dated 26/05/2016. Therefore, since the extant rules have substantially been complied with by the assessee, the appeal deserve to be adjudicated on merits. Keeping in view the principle of natural justice, we direct Ld. CIT(A) to admit the appeal and adjudicate the same on merits after affording reasonable opportunity of hearing to the assessee.



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5. In result, the appeal stands allowed for statistical purposes.

Order pronounced in the open court on 19th August, 2019.

Sd/-

(C.N. Prasad)

न्यायिक सदस्य / **Judicial Member**

Sd/-

(Manoj Kumar Aggarwal)

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 19/08/2019
Sr.PS, Jaisy Varghese

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT– concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

आदेशानुसार/ BY ORDER,

**उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai.**