



ITA No.5444/Mum/2018  
A.Y.2013-14  
Gopal Krishna Narla Rao

**आयकर अपीलीय अधिकरण “एक-सदस्य मजलस” न्यायपीठ मुंबई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“SMC” BENCH, MUMBAI**

**मजनीय श्री महावीर सिंह, न्यायिक सदस्य एवं**  
**माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।**  
**BEFORE HON’BLE SHRI MAHAVIR SINGH, JM AND**  
**HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM**

आकरअपील सं./ I.T.A. No.5444/Mum/2018  
(निर्धारण वर्ष / Assessment Year:2013-14)

<b>Mr. Gopalkrishna Narla Rao</b> 607, Maitri Chhaya Apartment Manipada Road, Kalina Santacruz (East), Mumbai-400 098.	<b>बनाम/ Vs.</b>	<b>ACIT-16(2) Mumbai.</b>
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. <b>AABPR-1916R</b>		
(पीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

<b>Revenue by</b>	:	Shri Akhtar H. Ansari- Ld.DR
<b>Assessee by</b>	:	Shri N.G.Rao-Ld. AR

सुनवाई की तारीख/ <b>Date of Hearing</b>	:	16/09/2019
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	16/09/2019

**आदेश / O R D E R**

**Per Bench: -**

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



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prescribed manner. The date of the impugned order is 28/03/2018. We have heard and considered the rival arguments.

2. Facts on record would reveal that the assessee has been assessed u/s 143(3) of Income Tax Act, 1961 on 29/03/2016 wherein the assessee was saddled with certain additions /disallowances. The assessee preferred appeal against the same before first appellate authority manually in paper form on 29/04/2016 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.

3. 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 filed within time prescribed for filing the appeal. However, the said appeal in terms of CBDT Notification No. SO 637(E) [No. 11/2016 (F. No. 149/150/2015-TPL)], dated 1-3-2016, was required to file digitally in electronic form. The failure to file the same in the prescribed form has resulted into dismissal of appeal in *limine*. Keeping in view the principles of natural justice, we are of the considered opinion that mere technical lapses could not deprive the assessee to seek justice in deserving cases. Therefore, in terms of the judgment of this Tribunal rendered in *All India Federation of Tax Petitioners Vs. ITO* [ITA No. 7134/Mum/2017 dated



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04/05/2018], the assessee is directed to *e-file* the appeal in the prescribed manner before Ld. first appellate authority within 10 days from the date of receipt of this order. Thereafter, the Ld. first appellate authority is directed to admit the appeal and adjudicate the same on merits.

4. The appeal stands allowed for statistical purposes.

*Order pronounced in the open court on 16<sup>th</sup> September, 2019.*

**Sd/-**

**Sd/-**

**(Mahavir Singh)**

**(Manoj Kumar Aggarwal)**

न्यायिक सदस्य / **Judicial Member**

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 16/09/2019  
Sr.PS:-Jaisy Varghese

**आदेश की प्रतिलिपि □ ग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त(अपील) / The CIT(A)
4. आयकर आयुक्त/ CIT– concerned
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

**आदेशानुसार/ BY ORDER,**

**उप/सहायक पंजीकार (Dy./Asstt.Registrar)**  
**आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai.**