

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

**BEFORE SHRI M.BALAGANESH, AM
&
SHRI RAM LAL NEGI, JM**

**ITA No.4277/Mum/2018
(Assessment Year :2013-14)**

M/s. Radxport Enterprises Pvt.Ltd. 3/A-1, Court Chambers 3 rd Floor, 35, New Marine Lines, Mumbai – 400 020	Vs.	Income Tax Officer – 1(3)(1) Aayakar Bhavan M.K.Road Mumbai – 400 020
PAN/GIR No.AABCR3371F		
(Appellant)	..	(Respondent)

Assessee by	Shri Madhur Agarwal
Revenue by	Shri D.G. Pansari
Date of Hearing	03/09/2019
Date of Pronouncement	11/09/2019

आदेश / O R D E R

PER M. BALAGANESH (A.M):

This appeal in ITA No.4277/Mum/2018 for A.Y.2013-14 arises out of the order by the Id. Commissioner of Income Tax (Appeals)-3, Mumbai in appeal No.CIT(A), Mumbai-3/10046/2016-17 dated 26/03/2018 (Id. CIT(A) in short) against the order of assessment passed u/s.143(3) of the Income Tax Act, 1961 (hereinafter referred to as Act) dated 25/02/2016 by the Id. Asst. Commissioner of Income Tax, Circle 1(3)(1), Mumbai (hereinafter referred to as Id. AO).

2. The only effective issue to be decided in this appeal is that the assessee had raised several grounds on merits, it has raised a preliminary ground No.1 questioning the dismissal of the appeal of the assessee by

the Id. CIT(A) on the ground that appeal was not preferred by the assessee before the Id. CIT(A) in electronic mode.

3. We have heard both the parties. It is not in dispute that the assessee has preferred an appeal within time before the Id. CIT(A) manually. It is a fact that assessee had not preferred any appeal before the Id. CIT(A) in electronic mode. This Tribunal has been consistently holding that even if the appeal has been filed manually before the Id. CIT(A) instead of electronic form, the Id. CIT(A) cannot dismiss the appeal of the assessee without adjudicating the issue on merits. Accordingly, we deem it fit and appropriate to set aside this appeal to the file of the Id. CIT(A) with a direction to admit the appeal and consider the grounds raised thereon afresh in accordance with law. The assessee is also given liberty to raise additional grounds and furnish additional evidences, if any, in support of its contentions, if they so desire. Since the appeal has been set aside to the file of the Id. CIT(A) on preliminary ground, the adjudication of other grounds on merits does not arise at this stage.

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

Order pronounced in the open court on this 11/09/2019

Sd/-
(RAM LAL NEGI)
JUDICIAL MEMBER

Sd/-
(M.BALAGANESH)
ACCOUNTANT MEMBER

Mumbai; Dated 11/09/2019
KARUNA, sr.ps

Copy of the Order forwarded to :

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

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai