

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर  
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCH 'A' JAIPUR

श्री संदीप गोसाई, न्यायिक सदस्य एवं श्री विक्रम सिंह यादव, लेखा सदस्य के समक्ष  
BEFORE: SHRI SANDEEP GOSAIN, JM & SHRI VIKRAM SINGH YADAV, AM

आयकर अपील सं./ITA No. 817/JP/2019  
निर्धारण वर्ष/Assessment Year :2014-15

Suren Kumar Jhanwar Ward No. 2, Mochi Well, Near Maheswari Bhawan, Sardar Shahar, Churu	बनाम Vs.	ITO, Ward-02, Churu
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AGXPJ2521Q		
अपीलार्थी/ Appellant		प्रत्यर्थी/ Respondent

निर्धारिती की ओर से/ Assessee by : Sh. H. M. Singhvi (CA)  
राजस्व की ओर से/ Revenue by : Sh. Rajendra Singh (JCIT)

सुनवाई की तारीख/ Date of Hearing : 03/10/2019  
उदघोषणा की तारीख/Date of Pronouncement: 03/10/2019

आदेश / ORDER

PER: VIKRAM SINGH YADAV, A.M.

This is an appeal filed by the assessee against the order of Id. CIT(A)-4, Jaipur dated 28.03.2019 for A.Y 2014-15.

2. At the outset, the Id AR submitted that the Id CIT(A) has erred in dismissing the appeal of the assessee as barred by limitation. It was submitted that the assessment order u/s 143(3)/144 dated 11.11.2016 was received by the assessee on 25.11.2016. Thereafter, the assessee through his A/R made an effort to file the appeal electronically on 10.12.2016 but due to technical problems, it could not be filed electronically and he approached the office of the Id CIT(A)-3 and was asked to file the appeal manually. It was submitted that the assessee subsequently filed the appeal manually before the Id CIT(A)-

3 on 14.12.2016 which was well within the limitation period of filing the appeal. It was further submitted that the assessee also filed the appeal electronically on 23.10.2017. It was accordingly submitted that the Id CIT(A) has not taken cognizance of the fact that the appeal has been filed manually by the assessee and taking into consideration the appeal filed electronically only, he has dismissed the appeal as barred by limitation. It was submitted that the breach committed by the assessee is only of technical nature and the same may be condoned and the matter may be decided on merits.

3. The Id DR is heard who has relied on the findings of the Id CIT(A) and submitted that there was a substantial delay in filing the appeal electronically and therefore, the Id CIT(A) was right in rejecting the appeal of the assessee as barred by limitation in absence of any reasonable cause shown by the assessee.

4. We have heard the rival contentions and pursued the material available on record. The fact that the appeal has been filed manually by the assessee has not been disputed by the Revenue as in para 2 of the Id CIT(A) order, it is noted by the Id CIT(A) that "the appeal is filed delay by 302 days for which condonation of delay in form 35 has been filed with a reason that 'Physical appeal was filed within time but my mistake, online appeal was not filed which is now filed.'" The Id CIT(A) has not taken into consideration the manual appeal so filed by the assessee and has dismissed the appeal of the assessee filed electronically stating that the same is barred by limitation. Given that the manual appeal has been filed within the limitation period, non-filing of the appeal electronically is only a technical breach which has subsequently been removed by the assessee by filing the appeal electronically. We accordingly set-aside the order of the Id CIT(A) to decide the matter on merits after providing reasonable opportunity to the assessee.

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

Order pronounced in the Open Court on 03/10/2019.

Sd/-  
( संदीप गोसाई )  
(Sandeep Gosain)  
न्यायिक सदस्य / Judicial Member

Sd/-  
(विक्रम सिंह यादव)  
(Vikram Singh Yadav)  
लेखा सदस्य / Accountant Member

जयपुर / Jaipur

दिनांक / Dated:- 03/10/2019

\*Ganesh Kr.

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. अपीलार्थी / The Appellant- Suren Kumar Jhanwar, Churu
2. प्रत्यर्थी / The Respondent- ITO, Ward -02, Churu
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त / CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur.
6. गार्ड फाईल / Guard File {ITA No. 817/JP/2019}

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar

