



ITA No.6143/Mum/2018
Elster Metering P.Ltd.
Assessment Year :2013-14

आयकर अपीलीय अधिकरण “ई” न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“E” 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.6143/Mum/2018
(निर्धारण वर्ष / Assessment Year:2013-14)

Elster Metering Private Limited Eco-Life, 4 th Floor, CST No.513/1, 508/1 Marol, Andheri (E), Mumbai-400 059.	बनाम/ Vs.	DCIT-9(2)(2) Aaykar Bhavan Churchgate Mumbai
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. AABCE-1487-B		
(पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	None
Revenue by	:	Shri Maurya Pratap – Ld. DR

सुनवाई की तारीख/ Date of Hearing	:	03/12/2019
घोषणा की तारीख / Date of Pronouncement	:	03/12/2019

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year [in short referred to as ‘AY’] 2013-14 contest the order of Ld. Commissioner of Income-Tax (Appeals)-16 Mumbai, [in short referred to as ‘CIT(A)’], *Appeal No. CIT(A)-16/DCIT-9(2)(2)/IT-87/2016-17* dated 13/07/2018 on certain grounds of appeal.



2. At the time of hearing, none appeared for assessee and hence, the matter was proceeded with *ex-parte qua* the assessee in view of the fact that appeal has been dismissed by first appellate authority in the impugned order since the appeal was filed in paper form as against Rule 45 & 46 of Income Tax Rules which mandate e-filing of appeal in electronic form.

3. Upon perusal of case records, it transpires that the assessee was saddled with certain additions / disallowances in an assessment framed u/s 143(3) on 10/03/2016. Aggrieved, the assessee assailed the same before first appellate authority wherein the appeal was dismissed on technical grounds as stated in para-2 above. Aggrieved, the assessee is under appeal before us.

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 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 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.

5. The appeal stands partly allowed for statistical purposes.

Order pronounced in the open court on 03rd December, 2019.

Sd/-

Sd/-

(C.N. Prasad)

(Manoj Kumar Aggarwal)

न्यायिक सदस्य / **Judicial Member** लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 03/12/2019

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.