



ITA No.6559/Mum/2018
Harmeet Singh Sablok
Assessment Year :2008-09

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

मजनीय 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

आकरअपील सं./ I.T.A. No.6559/Mum/2018
(निर्धारण वर्ष / Assessment Year: 2008-09)

Mr. Harmeet Singh Sablok A/24, Queens Park Premises CHS Ltd. Juhu, Santacruz (W) Mumbai- 400 049.	बनाम/ Vs.	ITO-Ward-22(1)(5) Piramal Chambers, Lalbaug Mumbai-400 049.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. ALRPS-3621-D		
(पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	Shri Kalpesh-Ld. AR
Revenue by	:	Shri R. Bhoopathi – Ld. DR

सुनवाई की तारीख/ Date of Hearing	:	05/12/2019
घोषणा की तारीख / Date of Pronouncement	:	05/12/2019

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year [in short referred to as ‘AY’] 2008-09 contest the order of Ld. Commissioner of Income-Tax (Appeals)-34, Mumbai, [in short referred to as ‘CIT(A)’] Appeal No. CIT(A)-34/ITO-22(1)(5)/IT-270/16-17 dated 28/09/2018 *qua* confirmation of penalty u/s 271(1)(c).



2. The Ld. Authorized Representative, at the outset, submitted that the impugned order is *ex-parte* order. Our attention is further drawn to the fact that the appeal has been dismissed on preliminary ground since it was not e-filed as mandated by the extant rules. The Ld. AR further submitted that the appeal has subsequently been filed electronically and therefore, the matter may be restored back for adjudication on merits. The Ld. DR supported the impugned order.

3. Fact on record would reveal that the assessee was saddled with penalty of Rs.0.52 Lacs for year under consideration vide penalty order dated 29/09/2016. Upon further appeal, Ld. CIT(A) dismissed the appeal on technical ground since it was not electronically filed as mandated by extant rules.

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]*, since the appeal has already been e-filed, the Ld. first appellate authority is directed to admit the appeal and adjudicate the same on merits.



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5. The appeal stands partly allowed for statistical purposes.

Order pronounced in the open court on 05th December, 2019.

Sd/-

Sd/-

(C.N. Prasad)

(Manoj Kumar Aggarwal)

न्यायिक सदस्य / **Judicial Member**

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 05/12/2019
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.