

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCHES "SMC", MUMBAI

BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER
AND
SHRI RAJESH KUMAR, ACCOUNTANT MEMBER

ITA No.	A.Y.	Appellant	Respondent
5914/Mum/18	2009-10	Mr. Himanshu Dhirendra Shah, 103, Preeti Palace, Dadabhai Cross Road No.3, Vile Parle (W), MUMBAI [PAN: AAEPS9493F]	Income Tax Officer- 17(1)(5), MUMBAI
5915/Mum/18	2010-11		
5916/Mum/18	2011-12		

Appellant by : Shri Divyesh V.Doshi, AR
Respondent by : Shri R. Bhoopathi, DR

Date of Hearing : 18-09-2019	Date of Pronouncement : 22-10-2019
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ORDER

PER RAJESH KUMAR, A.M:

These appeals filed by the assessee are directed against the order(s) of the Commissioner of Income Tax(Appeals)-56, Mumbai, for the AYs.2009-10, 2010-11 & 2011-12. Since the issue is common in all these appeals except the amounts mentioned therein, we have heard all the appeals together and decided by this common order. For the sake of convenience, appeal for the AY.2009-10 is discussed and adjudicated hereunder:

2. Briefly stated, assessee is an individual, engaged in the business of trading in Iron & Steel under the name and style

of 'M/s.Unitech Industries', filed his return of income on 29-09-2009, declaring total income at Rs.2,73,850/-. The return was processed u/s.143(1) of the Income Tax Act (Act).

3. As far as the filing of appeal is concerned, the assessee filed the present appeal manually as per the provisions of the Income Tax Act, 1961, on 11-04-2016 and the same was duly acknowledged by the office of Id. CIT(A)-28. The assessee could not upload the appeal electronically as required to be filed pursuant to Income Tax (third amendment) Rules, 2016, substitution of Rule 45 and Notification No. so 637(e) [No.11/2016 F.No.149/150/2015-tp1], dt.01-03-2016 despite making several attempts to upload. Before the Ld.CIT(A), the assessee has submitted that – *due to technical glitches the appeal could not get uploaded successfully and therefore had filed it manually* .Assessee also brought to the notice of the Ld.CIT(A) that vide Circular No.20/2016, dt.26-05-2016, Central Board of Direct Taxes has clarified in this regard that the filing of appeal is to be made electronically, but, however, due to lack of facilities, there were technical glitches in online uploading and all the appeals that were to be electronically filed by 15-05-2016 were extended upto 15-06-2016 . Thus, the assessee stated before the Ld.CIT(A) that the physical appeals filed would be enough compliance as the date for electronic filing was extended.

4. However, Ld.CIT(A) dismissed the appeals filed by the assessee merely on the ground that the assessee has not filed the appeals electronically.

5. We have heard the rival contentions and material on record. It is a fact that the assessee has filed the present appeals before the CIT(A) manually, though the CBDT vide Circular No.20/2016, dt.26-05-2016, has clearly clarified that all the appeals due to be electronically filed by 15-05-2016 were extended upto 15-06-2016 by a month. We observe that though assessee has not filed the appeal electronically, there is a proper compliance from the assessee to file the appeals physically. Taking the facts and circumstances of the case into consideration and the interest of justice, we restore the issue back to the file of CIT(A) to decide the same afresh on merits, after giving due opportunity of hearing to the assessee. Hence, the appeal for the AY.2009-10 is treated as allowed for statistical purposes.

AYs.2010-11 & 2011-12:

6. As far as the appeals of assessee for the AYs.2010-11 & 2011-12 are concerned, since the facts in these assessment years are identical to one as decided by us for the AY.2009-10 (supra) and therefore our findings in the said appeal would, *mutatis mutandis*, apply to these appeals as well. Resultantly, these appeals of assessee are allowed for statistical purposes.

Order pronounced in the open court on 22.10.2019

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

Sd/-

(RAJESH KUMAR)

लेखा सदस्य/ACCOUNTANT MEMBER

मुंबई/Mumbai; दिनांक/Dated : 22-10-2019

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

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

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

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