

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD òSMCö BENCH

**Before: Shri Amarjit Singh, Accountant Member
And Ms. Madhumita Roy, Judicial Member**

**ITA No. 736 /Ahd/2018
Assessment Year 2013-14**

Sudhir Kumar Pukhraj Bagrecha B-1, Sadbhav Society, Ghodacamp Road, Shahibaug, Ahmedabad PAN: ABHPB3814H (Appellant)	Vs	The ITO, DCIT Circle-1(2), Ahmedabad (Respondent)
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**Revenue by: Shri N.K. Goyal, Sr. D.R.
Assessee by: Shri Tej Shah, A.R.**

Date of hearing : 21-01-2020
Date of pronouncement : 28-01-2020

आदेश/ORDER

PER : AMARJIT SINGH, ACCOUNTANT MEMBER:-

This assessee's appeal for A.Y. 2013-14, arises from order of the CIT(A)-10, Ahmedabad dated 24-01-2018, in proceedings under section 271(1)(c) of the Income Tax Act, 1961; in short òthe Actö.

2. The solitary ground of appeal of the assessee is filed against the decision of Id. CIT(A) in dismissing the appeal on the ground that the

assessee has not filed the appeal against the order u/s. 271(1)(c) of the act electronically in the new form no. 35.

3. The fact in brief is that assessing officer has levied penalty of Rs. 1,11,379/- u/s. 271(1)(c) of the act vide order dated 11th May, 2016.

4. The assessee has filed appeal against the aforesaid order of the assessing officer before the Id. CIT(A) in the paper form in form no. 35 on 24th June, 2016. The Id. CIT(A) has noticed that assessee has filed the e-filing in form no. 35 on 25th March, 2016 much later than the stipulated time of e-filing. Consequently, the Id. CIT(A) has dismissed the appeal of the assessee holding that appeal was not filed in time in the electronic mode as cited above.

5. During the course of appellate proceedings before us, the Id. counsel has contended that assessee was not fully aware of the newly introduced procedure of e-filing of appeal in the electronic mode and when this fact was brought to his notice, the assessee had also filed the appeal in the electronic mode on 25th May, 2017. The Id. counsel has submitted that because of technical lapses on account of newly introduced system of filing of appeal in electronic mode the same could not be filed electronically because of technical error. However, the return in the paper form was furnished well within the stipulated time on 24th June, 2016. In view of these facts and circumstances, the Id. counsel has pleaded that the appeal of the assessee be adjudicated on merit. On the other hand, Id. departmental representative has supported the order of Id. CIT(A).

6. We have heard both the sides and perused the material on record. The assessee has filed appeal against the order of assessing officer in paper form no. 35 on 24th June, 2016, however, the same could not be filed electronically in form no. 35 within the stipulated time limit according to the Circular no. 20/2016 dated 26th May, 2016 of CBDT, New Delhi. The Id. CIT(A) has dismissed the appeal of the assessee holding that appeal was not filed in time in electronic mode by referring the above cited Circular of the CBDT. In this connection, we observed that the online filing of appeal was newly introduced during the year under consideration because of which the assessee had faced difficulty in uploading the appeal electronically in the system. The issuing of circulars by the CBDT for extending the date of filing the appeal implicit constraint and elucidate the hiccup in uploading the prescribed appeal in the system electronically. The above stated facts and findings indeed indicate that there was a bona fide reasonable cause for not filing the appeal electronically by the assessee, therefore, as per our considered opinion the Id. CIT(A) is not justified in dismissing the appeal.

In view of the above facts and circumstances, we restore this appeal to the file of the Id. CIT (A) for adjudication on merit after affording adequate opportunities to the assessee.

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

Order pronounced in the open court on 28-01-2020

Sd/-
(MADHUMITA ROY)
JUDICIAL MEMBER

Sd/-
(AMARJIT SINGH)
ACCOUNTANT MEMBER

Ahmedabad : Dated 28/01/2020

आदेश कलम अत / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपील अाधकरण,
अहमदाबाद