

**IN THE INCOME TAX APPELLATE TRIBUNAL "SMC", BENCH  
MUMBAI**

**BEFORE SHRI R.C.SHARMA, AM & SHRI VIKAS AWASTHY, JM**

**ITA No. 1115/Mum/2019  
(Assessment Year: 2008-09)**

Ms. Reema Bhatia, Flat No. 802, Norita Hiranandani Garden, Powai, Mumbai-400076.	Vs.	I.T.O.-26(2)(5) C-11, Room No. 506, 5 <sup>th</sup> Floor, Pratyashkar Bhavan, Bandra Kurla Complex, Bandra, Mumbai-400051.
<b>PAN/GIR No.AJAPB 6066 C</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

Assessee by	Shri Sameer Shah (AR)
Revenue by	Shri Amit Pratap Singh (DR)
<b>Date of Hearing</b>	<b>11/02/2020</b>
<b>Date of Pronouncement</b>	<b>12/02/2020</b>

**आदेश / O R D E R**

**PER: R.C. SHARMA, A.M.**

This is the appeal filed by the assessee against the order of the Id. CIT(A)-38, Mumbai dated 31/12/2018 for the A.Y. 2008-09 in the matter of order passed U/s 143(3) r.w.s. 254 of the Income Tax Act, 1961 (in short, the Act).

2. In this appeal, the assessee is basically aggrieved by the order of the Id. CIT(A) in dismissing the assessee's appeal on the plea that the assessee has not electronically filed the appeal.

3. We have gone through the orders of the authorities below and found that the against the order of the A.O., the assessee has manually filed appeal before the Id. CIT(A). However, the Id. CIT(A) has dismissed the assessee's appeal on the plea that the assessee should have filed appeal electronically in terms of CBDT notification No. 637(E) dated 01/03/2016. We found that subsequently the assessee has also filed appeal electronically. However, the Id. CIT(A) dismissed the appeal only on the plea that the assessee did not file appeal electronically as per provisions of Rule 12(3) of I.T. Rules. The Id. CIT(A) has not decided the issue on merit. In terms of provisions of sub-section (6) of Section 250 of the Act, the order of the Commissioner (Appeals) disposing of the appeal should be in writing and shall state the points for determination, the decision thereon and the reason for the decision. We found that the assessee has filed appeal before the Id. CIT(A) both manually and electronically, therefore, in the substantial interest of justice, we restore the matter back to the file of Id. CIT(A) for deciding the matter afresh on merit after condoning delay in filing the appeal electronically and also providing due and reasonable opportunity of hearing to the assessee. The assessee is also directed to appear before the Id. CIT(A) within 60 days from the date of receipt of this order. We direct accordingly.

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

Order pronounced in the open court on 12<sup>th</sup> February, 2020.

**Sd/-**  
**(VIKAS AWASTHY)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(R.C.SHARMA)**  
**ACCOUNTANT MEMBER**

Mumbai; Dated 12/02/2020

\*Ranjan

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

सत्यापित प्रति //True Copy//

BY ORDER,

(Asstt. Registrar)  
**ITAT, Mumbai**