

आयकर अपीलीय अधिकरण "A" न्यायपीठ मुंबई में।

IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, MUMBAI

श्री महावीर सिंह, उपाध्यक्ष एवं श्री मंजूनाथ जी, लेखा सदस्य के समक्ष ।
BEFORE SRI MAHAVIR SINGH, VP AND SRI MANJUNATHA G, AM

आयकर अपील सं./ ITA No. 3846/Mum/2019

(निर्धारण वर्ष / Assessment Years 2013-14)

Aasman Trading Private Limited 401, 4 th Floor, New Rajaram Niwas, 131/C, D.S.P. Road, Near Ranjit Studi, Dadar, Mumbai-400 014	बनाम/ Vs.	The Income Tax Officer, Ward 12(1)(1), Mumbai
(अपीलार्थी / Appellant)		(प्रत्यर्थी/ Respondent)
स्थायी लेखा सं./PAN No. AAECA5520A		

अपीलार्थी की ओर से/ Appellant by	:	Shri Sanjeev Lalan, AR
प्रत्यर्थी की ओर से/ Respondent by	:	None

सुनवाई की तारीख / Date of hearing:	16.06.2020
घोषणा की तारीख / Date of pronouncement:	16.06.2020

आदेश / ORDER

महावीर सिंह, उपाध्यक्ष /

PER MAHAVIR SINGH, VP:

This appeal of assessee is arising out of the order of the Commissioner of Income Tax (Appeals)-20, Mumbai, [in short CIT(A)], in ITA No. CIT(A)-20/IT-10100/2016-17 dated 22.03.2019. The assessment was framed by the Income Tax Officer, Ward 12(1)(1)(1), Mumbai (in short ITO/ AO) for the A.Y. 2013-14 vide order dated 29.03.2016 under section 143(3) of the Income-tax Act, 1961 (hereinafter 'the Act').

2. The only issue in this appeal of assessee is against the order of CIT(A) dismissing the appeal on the presumption that

the appeal was not signed by any director in term of the provision of section 140(3) of the Act. For this assessee has raised the following grounds: -

"1. Dismissal of Appeal without giving opportunity.

a. The Learned CIT(A) erred in not giving an opportunity of being heard to the appellant before dismissing the appeal, thereby violating the principle of natural justice.

b. the learned CIT(A) erred in law and facts in dismissing the appeal filed by your appellant on the presumption that the appeal was not signed by any Director, thereby failed to consider that the Form No35 was digitally signed by Director, who is dully authorized to verify the return of income under section 140(c) of the Income-tax Act, 1961.

c. Your appellant prays that the matter may please be restored to the Hon'ble CIT(A) for deciding the case on merits."

3. We have heard rival contentions and gone through the facts and circumstances of the case. We noted that the CIT(A) dismissed the appeal by observing in Para 4 as under: -

"4. In the instant case, the Form No.35 has been verified and digitally signed neither by the Managing Director nor any other Director. Therefore, the appeal is not valid. Accordingly, the appeal is treated as dismissed."



4. Before us, assessee contended that the assessee has actually filed an appeal which is digitally signed by one of the directors and verified the same and further, he pointed out from the relevant Form 35 before us and drew our attention to the verification part, which is very clear. Hence, we set aside the order of CIT(A) and remand the matter back to the file of the CIT(A) for adjudication on merits. If any deficiency is there in filing of appeal, he will allow one opportunity to rectify the same to the assessee.

5. In the Result, the appeal of assessee is allowed for statistical purposes.

Order pronounced in the open court on 16.06.2020

Sd/-

(मंजूनाथ जी/ MANJUNATHA G)

(लेखा सदस्य / ACCOUNTANT MEMBER)

Sd/-

(महावीर सिंह /MAHAVIR SINGH)

(उपाध्यक्ष / VICE PRESIDENT)

मुंबई, दिनांक/ Mumbai, Dated: 16.06.2020

सुदीप सरकार, व. निजी सचिव/ *Sudip Sarkar, Sr.PS*

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)
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई /
DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy// आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार

(Asstt. Registrar)

आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai