

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

Before Shri Shamim Yahya, Accountant Member &
Shri Ram Lal Negi, Judicial Member

ITA No.7439/MUM/2018
Assessment Year: 2008-2009

PPG Asian Paints Pvt. Ltd., Unit No.1, 4 th Floor, The Centrium Phoenix Market City, LBS Marg, Kurla (W), Mumbai 400 070 PAN AAACA8832H (Appellant)	Vs	ACIT(LTU)-2, Mumbai (Respondent)
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Appellant By : Shri Madhur Aggarwal
Respondent By : Shri Amit Pratap Singh

Date of Hearing :23.07.2020	Date of Pronouncement : 27.07.2020
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ORDER

Per Shamim Yahya, Accountant Member:

This appeal by the assessee is directed against order of learned CIT-A dated 31.10.2018 and pertains to assessment year 2008-09.

2. The preliminary issue raised is that learned CIT-A erred in dismissing the appeal in limine on the technical ground that the appeal was not filed electronically.

3. Brief facts of the case are that pursuant to the assessment order dated 29.01.2016, assessee filed appeal before the learned CIT-A. The learned CIT-A noted that pursuant to the directions in circular dated 10.03.2016 (SO 637 E.No.11/2016) in this regard, from the current assessment year the appeal before the learned CIT-A was to be filed in electronic mode. The learned CIT-A noted that since it was mandatory for the assessee to file appeal electronically, he dismissed the appeal in limine on the technical ground.

4. Against this order assessee is in appeal before us.
5. We have heard both the counsel and perused the records. We find that in the present case the learned CIT-A has not adjudicated the appeal filed before him. He has dismissed the same as unadmitted on the ground that the assessee was required file the appeal electronically . Since it was not so done the learned CIT-A dismissed the appeal. It is the plea of the assessee that this was the first year when it was required that the appeal should be filed electronically. It is prayed that there were some technical glitches and accordingly it is prayed that the appeal should be admitted and proper order on the adjudication of the same should be given.
6. Upon careful consideration we find that the assessee's plea is that it was the first year of the requirement of the appeal to be filed electronically and there were some technical glitches . It is prayed that in the interest of justice the appeal should be adjudicated on merits. Further we note that this assessment order was passed on 29.01.2016 . The said circular directing that appeals before the learned commission of income tax should be filed in electronic form did not specify any cut-off date for the date of assessment orders. In this view of the matter there can be a view possible that the said circular would not apply to assessment orders passed prior to the same.
7. Accordingly in our considered opinion the request by the learned counsel of the assessee deserves proper consideration. We note that it is settled law that in the web of hypertechnicality justice should not take a backseat. Learned counsel of the assessee has also submitted that the assessee has now already filed the appeal electronically.
8. Accordingly we remit the issue to the file of learned CIT-A. Learned CIT-A directed to consider the issues raised on merits and pass a speaking order after giving proper notice to the assessee.

9. In the result assessee's appeal is allowed for statistical purposes.

Order pronounced under Rule 34(4) of the ITAT Rules on 27/7/2020.

Sd/-
(Ram Lal Negi)
JUDICIAL MEMBER

Sd/-
(Shamim Yahya)
ACCOUNTANT MEMBER

Mumbai, Dated 27th July, 2020.
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Copy of the Order forwarded to :

1. The Appellant.
2. The Respondent.
3. The CIT(A),
4. The CIT
5. The DR, 'C' Bench

BY ORDER

//True Copy//

(Assistant Registrar)
Income Tax Appellate Tribunal, Mumbai