

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

**BEFORE SHRI C.N. PRASAD, HON'BLE JUDICIAL MEMBER AND
SHRI M. BALAGANESH, HON'BLE ACCOUNTANT MEMBER**

ITA NO. 5435/MUM/2018 (A.Y: 2010-11)

M/s. Industrial Spares K-4, K-5, 4 th Floor Dada Manzil, 67/69 Mohammed Ali road Mumbai – 400 003 PAN: AACFI3104P	v.	Income Tax Officer – 17(2)(1) Room No. 123-B-H 1 st Floor, Aayakar Bhavan M.K. Road, Mumbai – 400 020
(Appellant)		(Respondent)

Assessee by	:	None
Department by	:	Shri Kumar Padmapani Bora
Date of Hearing	:	06.02.2020
Date of Pronouncement	:	23.07.2020

ORDER

PER C.N. PRASAD (JM)

1. This appeal is filed by the assessee against the order of the Learned Commissioner of Income Tax (Appeals) – 56, Mumbai [hereinafter in short "Ld.CIT(A)"] dated 20.07.2018 for the Assessment Year 2010-11.

2. Assessee has raised its grievance that the Ld.CIT(A) dismissed the appeal on technical ground as the assessee has not filed the appeal in electronic form but filed manually.

3. In spite of issue of notice none appeared on behalf of the assessee nor any adjournment was sought by the assessee. Therefore, we proceed to dispose off this appeal on hearing the Ld. DR.

4. Heard Ld. DR, perused the orders of the authorities below. Identical issue had come up before the Coordinate Bench in the case of All India Federation of Tax Practitioners *v.* ITO in ITA.No. 7134/MUM/2017 and the Tribunal held that non-filing of appeal in the electronic form is only a procedural defect which can be cured and the Tribunal restored matter back to the file of the Ld.CIT(A) for disposal of appeal on merits and the assessee was directed to file appeal in electronic form within ten days on receipt of the order. Following the above decision, we restore this appeal to the file of the Ld.CIT(A) and assessee is directed to e-file the aforesaid appeal within a period of Fifteen (15) days from the date of receipt of this order, consequent to which delay in e-filing shall stand condoned and the Ld.CIT(A) shall dispose off the appeal on merits. Needless to say that the Ld.CIT(A) shall give adequate opportunity of being heard to the assessee.

5. In the result, appeal of the assessee is allowed for statistical purpose.

6. Before parting, we noticed that this appeal was heard on 06.02.2020 and the pronouncement is delayed due to lockdown in view of COVID-19 pandemic. The pronouncement is as per Rule 34(5) of Income Tax Appellate Tribunal Rules, 1963 and Hon'ble Bombay High Court decision vide orders dated 15.04.2020 and 15.06.2020 extending the time bound periods specified by Hon'ble High Court by removing the period under lockdown. This aspect was also dealt with in detail by the Mumbai Bench of the Tribunal in case of DCIT v. JSW Steel Vide order dated 15.05.2020.

Order pronounced on 23.07.2020 as per Rule 34(4) of ITAT Rules by placing the pronouncement list in the notice board.

Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER
Mumbai / Dated 23/07/2020
Giridhar, Sr.PS

Sd/-
(C.N. PRASAD)
JUDICIAL MEMBER

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.

//True Copy//

BY ORDER

(Asstt. Registrar)
ITAT, Mum