

**IN THE INCOME TAX APPELLATE TRIBUNAL
“H” BENCH, MUMBAI**

**BEFORE SHRI S. RIFAUR REHMAN, ACCOUNTANT MEMBER &
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER**

**ITA Nos. 2667/Mum/2019
(Assessment Years: 2013-14)**

Komal Surendra Hiranandani, 2 nd Floor, Neptune Court, 60 L, Jagmohandas Marg, Mumbai-400 006.	बनाम/ Vs.	ACIT 19(2) Room No. 207, 2 nd Floor, Matru Mandir Tardeo, Mumbai – 400 007.
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : ABUPH9038G		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से / Appellant by :	Shri Gautam Nayak, AR
प्रत्यर्थी की ओर से/Respondent by :	Shri R. Bhoopathi, DR
सुनवाई की तारीख / Date of Hearing	29/10/2020
घोषणा की तारीख /Date of Pronouncement	29/10/2020

आदेश / ORDER

PER SHRI PAVANKUMAR GADALE JM:

The assessee has filed the appeal against the order of the Ld Commissioner of Income Tax (Appeals)-30, Mumbai passed u/sec143(3) and 250 of the Act.

2. At the time of hearing, the ld. AR of the assessee submitted that the CIT(A) has dismissed the

assessee's appeal as nonest, because the assessee has not filed Form-35 electronically as per the procedure laid down under Rule 45 & 46 of Income Tax Rules, 1962. Whereas, the assessee has filed the reply on 5.03.2019 on the above issues which was overlooked and order was passed by CIT(A). Therefore, the ld. AR prayed that the assessee be provided one more opportunity to appear before the CIT(A) and prayed for allowing the appeal.

3. Contra, the DR submitted that the assessee should mandatorily file the appeal electronically.

4. We have heard the rival submissions and perused the material available on record. The sole crux of the disputed issue is that the assessee has filed the appeal in paper form on 22.04.2016. Further, we find that as per the amendment and procedure laid down under Rule 45 & 46 of the Income Tax Rules, 1962 w.e.f. 01.03.2016. The appeal in Form No. 35 has to be filed electronically, whereas the assessee has filed the appeal in paper form on 22.04.2016 as she was not aware of the technicalities in filing the appeal

electronically. Therefore, the appellate authority has treated the appeal as non-est and dismissed.

We have considered the fact of technicalities in filing the appeal electronically and the amendment effective from 01.03.2016. Accordingly, to meet the ends of justice, we set aside the order of the CIT(A) and restore the disputed issue to the file of the CIT(A) to adjudicate afresh on merits and the assessee should be provided adequate opportunity of hearing and shall cooperate in submitting the information and comply with appeal filling Rules for early disposal of appeal and allow the grounds of appeal of the assessee for statistical purposes.

5. In the result, the appeal of the assessee is treated as allowed for statistical purposes.

The order pronounced on 29.10.2020, in the open court.

Sd/-
(S. RIFAUR REHMAN)
ACCOUNTANT MEMBER

Sd/-
(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Mumbai, Dated 29/10/2020

KRK, PS

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त(अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

1.

उप/सहायक पंजीकार (Asst. Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Mumbai