

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "D": NEW DELHI**

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER
AND
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER
(Through Video Conferencing)**

ITA No.290/Del/2017
(Assessment Year: 2013-14)

M/s. Lotus Auto Engineering Ltd., C/o. M/s. R R A TaxIndia, D-28, South Extension, Part-I, New Delhi – 110 049. PAN: AABCL9253C	Vs.	ACIT, Circle : 15 (2), New Delhi.
(Appellant)		(Respondent)

Assessee by :	N O N E;
Revenue by:	Ms. Ashima Paul, [CIT] – DR;
Date of Hearing	28/01/2021
Date of pronouncement	28/01/2021

ORDER

PER PRASHANT MAHARISHI, A. M. :

1. This appeal is filed by the assessee against the order of the Id. Commissioner of Income Tax (Appeals)-5, New Delhi, dated 3.11.2016 for Assessment Year 2013-14 dismissing appeal filed by the assessee in paper format on 21.04.2016 against the order dated 22.03.2016 passed by the ACIT, Circle-15(2), Delhi, under Section 143(3) of the Income Tax Act, 1961 (the Act) was challenged.
2. The Id. CIT (Appeals) dismissed the appeal of the assessee as appeal was filed by the assessee in paper format manually. The Id. CIT (Appeals) held that assessee was required to file the appeal only in electronic form latest by 15.06.2016. The assessee filed appeal electronically only on 18.10.2016. Thus, he held that the paper appeal is to be treated as non-est and the appeal is to be dismissed in limine. However, he held that appeal filed by the assessee electronically on 18.10.2016 would be considered in the priority of disposal of appeal as per CBDT parameters having due regard to application for condonation. The assessee is aggrieved with the above appeal order.

3. None appeared on behalf of the assessee.
4. The ld. DR also sought adjournment. However, looking to the facts of the case the appeal is proceeded on the basis of merits of the admission of the appeal.
5. On looking at the grounds by which the ld. CIT (Appeals) treated the appeal of the assessee as non est by para No. 3.5 are as under:-

“ 3.5 To sum up, the appellant was required to file the appeal only in electronic form latest by 15.06.2016. However, the present appeal / copy of the appeal filed manually in this office is a paper appeal and thus does not meet the requirement of the afore-stated rules. I have bestowed my careful attention to the matter and am of the opinion that since the appellant was mandatorily required to file the appeal electronically within the extended period till 15/06/2016, but has failed to do, the appeal cannot be treated as filed as per the mandates of the Act / Rules and there being no other way by which the defect could be removed other than by filing the appeal electronically (as per the applicable provisions), the paper appeal is to be treated as non-est and the appeal is to be dismissed in limine. The appellant has filed the appeal electronically on 18.10.2016, which would be considered, in the priority of disposal of appeal as per CBDT parameters, and having due regard to application for condonation. “

6. On careful consideration, the ld. CIT (Appeals) correctly dismissed the appeal of the assessee treating it as non-est as it was filed manually and not in accordance with the provisions of the law at that particular time. However, the ld. CIT (Appeals) has also held that assessee has now filed appeal electronically on 18.10.2016, which would be considered subject to the application of condonation of delay and as per parameters set up by CBDT. As the appeal of the assessee filed on 18.10.2016 electronically would be considered on merits, We find that there is substantial justice rendered by the ld. CIT (Appeals). However, assessee is directed to file an application for condonation of delay, if any. We direct the ld. CIT (Appeals) to consider the same in accordance with law.
7. In view of this, when the appeal of the assessee filed electronically would be taken up for hearing it would be decided on the merits of the case the substantive grievance of the assessee would be settled when its appeal would be picked up for hearing.
8. In the result, ground Nos. 1 and 2 of the appeal of the assessee are allowed.

9. In the result, appeal of the assessee is allowed.

Order pronounced in the open court on: 28/01/2021.

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Sd/-
(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER

Dated: 28/01/2021.

MEHTA

Copy forwarded to :-

1. Appellant
2. Respondent
3. CIT
4. CIT (A)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi.

Date of dictation	28.01.2021
Date on which the typed draft is placed before the dictating member	28.01.2021
Date on which the typed draft is placed before the other member	28.01.2021
Date on which the approved draft comes to the Sr. PS/ PS	28.01.2021
Date on which the fair order is placed before the dictating member for pronouncement	28.01.2021
Date on which the fair order comes back to the Sr. PS/ PS	28.01.2021
Date on which the final order is uploaded on the website of ITAT	28.01.2021
date on which the file goes to the Bench Clerk	28.01.2021
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the order	