

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'G': NEW DELHI
(Through Video Conferencing)**

**BEFORE,
SHRI R.K.PANDA, ACCOUNTANT MEMBER
AND
SHRI SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER**

**I.T.A No.5805/Del/2016
(ASSESSMENT YEAR 2012-13)**

M/s XL Laboratories Pvt. Ltd. 430-31, DLF Tower, Shivaji Marg, New Delhi-110 015. PAN-AAACX 0157E	Vs.	Dy. CIT, Central Circle-27(1), New Delhi.
(Appellant)		(Respondent)

Appellant By	Shri Ramesh Goyal, CA
Respondent by	Sh. Prakash Dubey, Sr. DR
Date of Hearing	24.03.2021
Date of Pronouncement	24.03.2021

ORDER

PER SUDHANSHU SRIVASTAVA, JM:

This appeal is preferred by the assessee against order dated 06.09.2016 passed by the Learned Commissioner of Income Tax (Appeals)-9, New Delhi {CIT(A)} for Assessment Year 2012-13.

2.0 At the outset, the Ld. Authorized Representative (AR) submitted that the appeal before the Ld. CIT(A) was treated as non-est and the appeal of the assessee was dismissed in *limine* for the reason that the assessee was required to file the appeal in electronic form but the assessee had filed the appeal in manual form. The Ld. AR submitted that the appeal had to be filed manually on 08.03.2016 due to some technical issues in the e-filing website of the Income Tax Department and that once the appeal was submitted manually, no intimation was ever received from the Department regarding the appeal to be submitted in electronic form. It was submitted that in the interest of justice, the assessee should be given an opportunity to represent its case before the Ld. First Appellate Authority.

2.0 Per contra, the Ld. Sr. Departmental Representative (DR) submitted that even if the assessee had filed the appeal manually, it was required that the appeal should be filed electronically in terms of amended Rule-45 r.w. Rule 12(3) of the Income Tax Rules, 1962, specially when the CBDT had extended

the time limit for filing of e-appeals to 15.06.2016 vide Circular No.20/2016 dated 26.05.2016. The Ld. Sr. DR submitted that the Ld. CIT(A) had rightly dismissed the assessee's appeal in *limine*.

3.0 Having heard both the parties, it is our considered opinion that, although, the assessee was required to file the appeal in electronic form w.e.f., 01.03.2016, it is undisputed that at that particular time there were some technical glitches in the e-filing website of the Income Tax Department due to which the CBDT subsequently extended the time limit for filing of e-appeals to 15.06.2016. Thus, although the assessee had tried earlier to file the appeal in electronic form, it could not do so due to the technical issues involved. In such a situation, the assessee should not be put to a disadvantage and, therefore, for the reason of substantial justice, we direct the Ld. CIT(A) to admit the assessee's appeal filed in the manual form for regular hearing and, thereafter, pass an order in accordance with law after giving due opportunity to the assessee to present its case.

4.0 In the final result, the appeal of the assessee stands allowed for statistical purposes.

Above decision was announced on conclusion of Virtual Hearing on 24th March, 2021.

Sd/-
(R.K.PANDA)
ACCOUNTANT MEMBER

Dated: 24/03/2021

PK/PS

Copy forwarded to:

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

Sd/-
(SUDHANSHU SRIVASTAVA)
JUDICIAL MEMBER

ASSISTANT REGISTRAR
ITAT NEW DELHI