

**IN THE INCOME TAX APPELLATE TRIBUNAL (VIRTUAL COURT)  
"SMC" BENCH, MUMBAI**

**BEFORE SHRI C.N. PRASAD, HON'BLE JUDICIAL MEMBER**

**ITA NO. 1781/MUM/2020 (A.Y: 2013-14)**

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|--|----|---|
| Shri Sanjay Manohar Vazirani<br>301, Safal Pride<br>Sion Trombay Road<br>Deonar, Mumbai - 400088<br><br><b>PAN: ACNPV7946D</b> | v. | ACIT-27(3)<br>Tower No. 6, 4 <sup>th</sup> Floor<br>Vashi Railway Station Building Complex<br>Vashi, Navi Mumbai-400703 |
| <b>(Appellant)</b>   |    | <b>(Respondent)</b>   |

|                              |          |                             |
|------------------------------|----------|-----------------------------|
| <b>Assessee by</b>           | <b>:</b> | <b>Shri Ravikant Pathak</b> |
| <b>Department by</b>         | <b>:</b> | <b>Shri Sanjay J. Sethi</b> |
|                              |          |                             |
| <b>Date of Hearing</b>       | <b>:</b> | <b>23.09.2021</b>           |
| <b>Date of Pronouncement</b> | <b>:</b> | <b>01.10.2021</b>           |

**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) – 22, Mumbai [hereinafter in short "Ld.CIT(A)"] dated 19.02.2020 for the Assessment Year 2013-14.
2. Assessee has raised his 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. Ld. Counsel for the assessee submitted that, appeal filed by the assessee was rejected by the Ld.CIT(A) for the reason that assessee has not filed appeal in the electronic form and was filed manually and hence appeal is not maintainable. Ld. Counsel for the assessee submitted that appeal was filed manually on 29.04.2016 within the prescribed time, and therefore dismissal of appeal on technical ground is not justified. Ld. Counsel further submitted that in fact appeal in electronic form was also filed on 06.07.2016 and the Ld.CIT(A) noted this fact. Ld. Counsel submitted that non-filing of appeal electronically is only a technical defect and the appeal cannot be invalidated since it is not filed electronically. Reliance was placed on the following decisions in support of his contention that the appeal filed manually cannot be treated as invalid simply because it was not filed electronically.

- (i) *All India Federation of Tax Practitioners v. Income Tax Officer in ITA.No. 7134/Mum/2017 [64 ITR (Trib.) 0704].*
- (ii) *M/s. Sunjewels International Private Limited v. DCIT in ITA No 3995/Mum/2018 dated 20.08.2019*
- (iii) *Mr. Umesh A Mishra v. ITO in ITA No. 1936/Mum/2018 dated 19.03.2019*
- (iv) *M/s. Unique Properties & Securities Pvt Ltd v. DCIT in ITA No. 5475/Mum/2017 dated 05.02.2018*
- (v) *M/s. Asterix Reinforced Ltd. v. ITO in ITA No.426/M/2018 dated 16.05.2018*
- (vi) *Pragna Manish Chheda v. ITO in ITA No. 1631 /Mum/2018 dated 28.03.2019.*

4. Ld. DR supported the orders of the authorities below.

5. Heard both sides, perused the orders of the authorities below and the case laws relied on. 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 order. Similar view has been taken by the Coordinate Bench in the decisions which were relied on by the Assessee. Respectfully following the above decisions, I restore this appeal to the file of the Ld.CIT(A) and since assessee had e-filed its appeal on 06.07.2016 the Ld.CIT(A) shall dispose off the said appeal on merits. Needless to say that the Ld.CIT(A) shall give adequate opportunity of being heard to the assessee.

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

Order pronounced on 01.10.2021 as per Rule 34(4) of ITAT Rules by placing the pronouncement list in the notice board.

Sd/-  
**(C.N. PRASAD)**  
**JUDICIAL MEMBER**  
Mumbai / Dated 01/10/2021  
Giridhar, Sr.PS

**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**