

आयकर अपीलिय अधिकरण, 'बी' (एस एम सी) न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' (SMC) BENCH, CHENNAI

श्री महावीर सिंह, उपाध्यक्ष के समक्ष
BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT

आयकर अपील सं./ITA No.: **377/CHNY/2020**
निर्धारण वर्ष /Assessment Year: 2013-14

**M/s. Gemini Iron and Steel (P)
Ltd.,**
Prince Plaza Shop No.4, Basement,
No.73, Pantheon Road,
Egmore, Chennai – 600 008.

The ITO,
v. Corporate Ward-2(2)
Chennai - 34.

PAN : AADCG 7626E
(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by
प्रत्यर्थी की ओर से/Respondent by

: Shri R.S.. Balaji, Advocate
: Ms. R. Anitha, Addl.CIT

सुनवाई की तारीख/Date of Hearing

: 02.11.2021

घोषणा की तारीख/Date of Pronouncement

: 02.11.2021

आदेश /O R D E R

1. This appeal by the assessee is arising out of the order of Commissioner of Income Tax (Appeals)-6, Chennai, in ITA No.131/CIT(A)-6/2016-17, order dated 03.12.2019. The Assessment was framed by Income Tax Officer, Corporate Ward - 2(2), Chennai for the assessment year 2013-14 vide order dated 29.03.2016 U/s 143(3) of the Income Tax Act, 1961 (hereinafter 'the Act').

2. At the outset, it is noticed that this appeal is barred by limitation and delay is of 17 days. When this was pointed out to the Id.counsel, he stated that condonation petition along with affidavit has been filed stating the reasons. The Id.counsel pointed out from the affidavit second page at point 4 that the AR of assessee is a senior person, aged 81 and medically not fit during that period. Hence, he requested that delay be condoned and appeal be admitted. Moreover another reason that CIT(A) has dismissed the appeal un-admitted, for the reason that assessee has filed appeal manually instead of electronically filing is mandatory under the rules. When these facts were confronted to Id. senior Department Representative, she could not controvert the above stated facts. Hence, I condone the delay and admit the appeal.

3. The Id.counsel for the assessee took me through the order of CIT(A) and CIT(A) has dismissed the appeal because the assessee has filed the appeal manually instead of e-filing. Further, the assessee has filed appeal before CIT(A) with a delay of 34 days. According to CIT(A), since no condonation

petition was filed, this was another reason for appeal not-maintainable.

4. Now before Tribunal, the Id.counsel stated that the assessee is not aware of any notification issued by CBDT i.e., notification No.20/2016 dated 26.05.2016, that the appeal is to be filed through e-filing. The assessee filed appeal through e-filing on 15.12.2016 and cited the reason for delay in filing through e-filing. Hence, Id.counsel requested that the appeal be admitted before CIT(A) and the same may be directed to adjudicate on merits. When these facts were confronted to Id.senior DR, she stated that the appeal can be admitted and remanded back to the file of the CIT(A) for adjudication on merits.

5. After hearing both the sides and going through the facts, I direct the CIT(A) to admit the appeal because delay was in e-filing and not on manual filing. Hence, it cannot be considered delay before CIT(A) and even if, it is delay, there is reasonable cause and hence, I condone the delay. I direct the CIT(A) to decide the appeal which is filed by the assessee

through e-filing. Therefore, appeal of the assessee is set aside and matter remanded back to the file of the CIT(A) for adjudication on merits.

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

Order pronounced in the open court on 2nd November, 2021 at Chennai.

Sd/-
(महावीर सिंह)
(Mahavir Singh)
उपाध्यक्ष /Vice President

चेन्नई/Chennai,
दिनांक/Dated, the 2nd November, 2021

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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|------------------------|--------------------------|------------------------------|
| 1. अपीलार्थी/Appellant | 2. प्रत्यर्थी/Respondent | 3. आयकर आयुक्त (अपील)/CIT(A) |
| 4. आयकर आयुक्त /CIT | 5. विभागीय प्रतिनिधि/DR | 6. गार्ड फाईल/GF. |