

INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "E": NEW DELHI

BEFORE SHRI R. K. PANDA, ACCOUNTANT MEMBER
AND
SHRI N. K. CHOUDHRY, JUDICIAL MEMBER
(Through Video Conferencing)

ITA No. 5201/Del/2018
(Assessment Year: 2008-09)

Manoj Kumar Sharma,
11/4, Shivam Vihar, Jakhan,
Dehradun
PAN: AXCIPS6344N
(Appellant)

Vs. ITO,
Ward-1(5),
Dehradun

(Respondent)

Assessee by :

None

Revenue by:

Smt Poonam Sharma,
Ld. CIT DR

Date of Hearing

21/02/2022

Date of pronouncement

21/02/2022

O R D E R

PER N.K. CHOUDHRY, J. M.:

1. This appeal has been preferred by the Assessee against the Order dated 08-05-2018, impugned herein by the Ld. Commissioner of Income Tax, Dehradun (in short 'Ld. Commissioner') u/s 250(6) of the Income Tax Act-1961 (in short 'the Act'), whereby the Ld. Commissioner dismissed the appeal of the Assessee in limine.

2. In this case, the assessment order dated 28.03.2016 was passed by the AO u/s 147 read with section 144 of the Act, against which the Assessee instead of filing the appeal electronically, filed the same in physical form on dated 17.11.2008 and therefore, vide impugned order the same was dismissed by the Id. Commissioner in 'limine' by treating as invalid and non-est. Against the dismissal of appeal, the Assessee has preferred the instant appeal.

3. The Assessee has submitted that because of the technical glitches in the online portal of the Income Tax Department, the Assessee could not file the appeal in electronic form and was constrained to file in physical form. Infact not filing the appeal electronically was neither intentional nor malafide.

4. On the contrary the Id. DR refuted the claim of the assessee.

5. Heard the parties and perused the material available on record. We observe that the identical issue came up before the Hon'ble Co-ordinate Bench of this Tribunal, in the case of M/s. SL Laboratories Pvt. Ltd Vs. Dy. CIT {ITA No. 5805/Del/2016 for the Assessment Year 2012-13 decided on 24.03.2021} wherein, the Hon'ble Bench has taken the lenient view by considering the peculiar facts and circumstances qua technical glitches in the e-filing website of the Income Tax department and allowed the appeal of the Assessee and consequently directed the Ld. Commissioner to admit the Assessee's appeal filed in the manual form for regular hearing and thereafter to pass the order on merit, in accordance with law after giving due opportunity to the assessee to present its case. For ready reference the concluding part of order passed by the Hon'ble Bench is reproduced herein below for brevity and ready reference:-

“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."

6. We have given thoughtful consideration to the facts and circumstances of this case and find that identical issue was involved in M/s. SL Laboratories Pvt. Ltd Vs. Dy. CIT. Even otherwise we do not find any material and reason to disbelieve the contention of the Assessee qua technical glitches in web site of the Revenue Department at the time of filling of appeal by the Assessee in physical form. Even Prima facie non-filing of the appeal electronically does not seem to be malafide or intentional and no useful purpose has been served by not filling the appeal electronically. Even no prejudice shall be caused to the Revenue Department if the appeal of the Assessee is allowed to be decided on merit, hence considering the peculiar facts and circumstances mentioned above and in view of the decision of the Hon'ble Coordinate Bench, we deem it appropriate to direct the Ld. Commissioner to treat the appeal filed by the assessee in physical form as filed electronically and to decide the same on merit, suffice to say while affording reasonable opportunity of heard to the Assessee. Hence, ordered accordingly.

7. In the result the appeal of the Assessee stands allowed for statistical purposes.

Order pronounced in the open court on 21/02/2022.

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

-Sd/-
(N.K. CHOUDHRY)
JUDICIAL MEMBER

Dated: 21/02/2022
A K Keot

Copy forwarded to

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

ASSISTANT REGISTRAR
ITAT, New Delhi