

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'D' BENCH,
NEW DELHI

BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER, AND
MS. ASTHA CHANDRA, JUDICIAL MEMBER

ITA No. 414/DEL/2020 [A.Y 2010-11]

Trident Turboprop [Dublin] DAC
1st Floor, Cape House
Westend Office Park
Sungborough Road
Blanchardstown, Dublin 15
Ireland

Vs. The Income Tax Officer
[Nodal Officer]
Circle, International
Taxation - 3
New Delhi

PAN: AACCT 7617 H

(Applicant)

(Respondent)

Assessee By : Shri Sachit Jolly, Adv

Department By : Ssanjay Kumar, Sr. DR

Date of Hearing : 02.06.2022

Date of Pronouncement : 02.06.2022

ORDER

PER N.K. BILLAIYA, ACCOUNTANT MEMBER:-

This appeal by the assessee is preferred against the order of the
ld. CIT(A) - 43 New Delhi dated 31.10.2019 pertaining to Assessment
Year 2010-11.

2. The substantive grievance of the assessee is that the ld. CIT(A) erred in holding the manual/paper appeal filed by the assessee as non-est for being against the procedure laid down u/r 45 of the ITAT Rules, 1962.

3. In the alternative, the assessee has also challenged the reopening of the assessment and additions on merits of the case.

4. The appeal is late by 13 days. The assessee has moved an application for condonation of delay stating the reason for delay in filing the appeal.

5. The miniscule delay is condoned.

6. A perusal of the order of the ld. CIT(A) shows that the appeal has been filed manually before the ld. CIT(A) in Form 35 on 08.10.2018 by Power of Attorney holder Shri Sean Mckinley with Shri Siddharth Joshi, Advocate. The reasons given for filing the appeal in the paper form was that the assessee was unable to reset the online password.

7. The ld. CIT(A) was not convinced and dismissed the appeal in limine.

8. We have given thoughtful consideration fo the reasons explained by the ld. counsel for the assessee in filing the appeal in paper form. We are of the considered view that the ld. CIT(A) ought to have decided the appeal on merits of the case rather than adopting hyper technical interpretation of a procedural requirement. Therefore, in the interest of justice and fair play, we restore this appeal to the file of the ld. CIT(A) with a direction that the appeal may be decided on merits after giving reasonable and sufficient opportunity of being heard to the assessee.

9. In the result, the appeal of the assessee in ITA No. 414/DEL/2020 is allowed for statistical purposes.

The order is pronounced in the open court on 02.06.2022.

Sd/-

**[ASTHA CHANDRA]
JUDICIAL MEMBER**

Sd/-

**[N.K. BILLAIYA]
ACCOUNTANT MEMBER**

Dated: 02nd June, 2022.

VL/

Copy forwarded to:

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

Asst. Registrar,
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr.PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
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	