

**IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRI PAWAN SINGH, JM & DR. A. L. SAINI, AM**

आयकर अपील सं./ITA No. 140/SRT/2017

Assessment Year: (2013-14)

(Physical Court Hearing)

Mehrunisha M. Shaikh, 65/67, Moral High Land, Muslim Society, Bharuch.	Vs.	The ITO, International Taxation, Surat.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: EUFPS 5946 L		
(Appellant)		(Respondent)

आयकर अपील सं./ITA No. 141/SRT/2017

Assessment Year: (2013-14)

(Physical Court Hearing)

Mohammadhussain Shaikh, 65/67, Moral High Land, Muslim Society, Bharuch.	Vs.	The ITO, International Taxation, Surat.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: EUFPS 5946 L		
(Appellant)		(Respondent)

Assessee by	Shri Krutarth Desai, CA
Respondent by	Shri J. K. Chandnani, Sr. DR
Date of Hearing	24/06/2022
Date of Pronouncement	28/06/2022

आदेश / O R D E R

PER DR. A. L. SAINI, AM:

Captioned two appeals filed by the different assessees, pertaining to Assessment Year (AY) 2013-14, are directed against the separate orders passed by the Learned Commissioner of Income Tax (Appeals)-13, Ahmedabad [in short “the Id. CIT(A)”] in Appeal No. CIT(A)-13/Intl.Taxn/AHD/36/2016-17, dated 21.06.2017 which in turn arise out of assessment orders passed by the Assessing Officer under section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as “the Act”), both orders dated 28.03.2016

2. At the outset, Ld. Counsel for the assessee submitted that assessee, being illiterate and does not know the intricacy of the Income Tax Act, therefore, he filed the appeal before the ld. CIT(A) manually in paper form. Therefore, ld. CIT(A) dismissed these appeals of the assessee stating that assessee should have filed appeals before the ld. CIT(A) in electronic mode as per CBDT Notification No. 637(E) dated 01.03.2016. Therefore, ld. CIT(A) did not admit these two appeals for adjudication on merit. The Ld. Counsel submitted that assessee's case relates to AY.2013-14, however, the CBDT has issued a Notification No.637(E) on 01.03.2016, hence, there was very less awareness about this CBDT Circular and therefore these assessee filed the appeals manually. The Ld. Counsel submitted that this is an unintentional mistake and therefore should be ignored and ld CIT(A) may be directed to adjudicate these appeals on merit.

3. On the other hand, Learned Departmental Representative (Ld. DR) for the Revenue reiterated the stand taken by the ld. CIT(A) and argued that as per Notification No. 637(E) dated 01.03.2016, the assessee must have filed an appeal in electronic mode, therefore ld. CIT(A) has rightly dismissed the appeal of the assessee. A particular thing, which is to be done in a particular way as per law, has not been done, so these appeals should be dismissed.

4. We have heard both the parties. We note that as per CBDT Notification No. 637(E) (supra), the assessee supposed to file appeal by way of electronic mode, however, these assessee have filed these appeals manually and therefore ld CIT(A) dismissed these appeals. We note that Statute gives right to an assessee to file an appeal. The statutes conferring a right of appeal must be construed in furtherance of justice, so that the party pursuing such remedy allowed to him by the law is not *non-suited* on mere technicalities. We note that substantial justice should not be denied to the assessee just merely because assessee have filed these appeals manually. In assessee's case the assessment year involved is the assessment year 2013-14 whereas the CBDT issued circular

on 01.03.2016, and hence there was no much awareness among the taxpayers about the said circular.

5. At this juncture, it is appropriate to quote the golden words of Beaumont CJ, in the case of CIT v Edulji F E Dinshaw [1943] 11 ITR 340, 347-8:

“That the conception of natural justice should at all stages guide those who discharge judicial functions is not merely an acceptable but is an essential part of the philosophy of the law. We often speak of the rules of natural justice. But there is nothing rigid or mechanical about them. What they comprehend has been analysed and described in many authorities. But any analysis must bring into relief rather their spirit and their inspiration than any precision of definition or precision as to application. We do not search for prescriptions which will lay down exactly what must, in various, divergent situations, be done. The principles and procedures are to be applied which, in any particular situation or set of circumstances, are right and just and fair. Natural justice, it has been said, is only “fair play in action”. Nor do we wait for directions from Parliament. The common law has abundant riches: there may we find what Bylaes J called “the justice of the common law”.

6. Since, as per Notification No. 637(E) dated 01.03.2016, the assesseees should file these appeals in electronic mode, therefore, we direct both the assesseees to file these appeals in electronic mode within two Months from the receipt of this order with the prayer of condonation of delay, before Id CIT(A). We direct the Id. CIT(A) to condone the delay in filling these appeals in electronic mode and admit these two appeals for adjudication on merit. It is also made clear that instant adjudication shall not be treated as a precedent in any preceding or succeeding assessment year.

7. In the result, both the appeals filed by the assesseees are allowed for statistical purposes.

Registry is directed to place one copy of this order in all appeals folder / case file(s).

Order is pronounced in the open court on 28/06/2022 by placing the result on the Notice Board as per Rule 34(5) of the Income Tax (Appellate Tribunal) Rule 1963.

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

सूरत /Surat

दिनांक/ Date: 28/06/2022

SAMANTA

Copy of the Order forwarded to

1. The Assessee
2. The Respondent
3. The CIT(A)
4. CIT
5. DR/AR, ITAT, Surat
6. Guard File

Sd/-
(Dr. A.L. SAINI)
ACCOUNTANT MEMBER

By Order

// TRUE COPY //

Assistant Registrar/Sr. PS/PS
ITAT, Surat