

**IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, MUMBAI**

BEFORE SHRI AMIT SHUKLA, JM

आयकरअपीलसं./ I.T.A. No. 1792/Mum/2022
(निर्धारणवर्ष / Assessment Year: 2010-11)

Jaidevi Bahvesh Ajmera 13A, 2 nd Floor, Shree Krisnapant Niwas, Dr. D. D. Sathe Marg, Girgaum, Mumbai-400 004	बनाम/ Vs.	ITO – 1992)(1), Matru Mandir, Tardeo Road, Mumbai-400 007
स्थायीलेखासं ./जीआइआरसं ./PAN No. ABOPJ6214G		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	None
प्रत्यर्थीकीओरसे/ Respondent by	:	Ms. Neeta Jeph, Ld. DR
सुनवाईकीतारीख/ Date of Hearing	:	30.08.2022
घोषणाकीतारीख / Date of Pronouncement	:	30.08.2022

आदेश / O R D E R

Per Amit Shukla, Judicial Member:

The aforesaid appeal has been filed by the assessee against the order dated 21.01.2019, passed by Ld. CIT(A) – 30, Mumbai for the quantum of assessment passed u/s 143(3) for AY 2010-11.

2. Assessee is aggrieved by dismissing the appeal of the assessee by Ld. CIT(A) on the ground that appeal was filed by the assessee

manually and not electronically without appreciating the fact that the assessee had duly filed the appeal within due date of statutory time limit and this was being the first year of the transition to the new system and assessee was not aware of the new procedure.

3. From the perusal of record it is seen that assessee had filed the appeal manually within time before the Ld. CIT (A), however, Ld. CIT(A) has simply dismissed the appeal on the ground that assessee has not filed the appeal electronically which is in contravention of Rule 45 of Income Tax Rules. Ld. DR did not have any objection if the matter is remanded back to the file of Ld. CIT (A) for deciding the matter afresh.

4. After considering the aforesaid undisputed fact that assessee has filed the appeal physically on 21.04.16 which was before the due date of filing the appeal and Ld. CIT(A) has dismissed the appeal holding that assessee has filed the appeal manually which is invalid. Admittedly, the scheme of physical filing of appeal was replaced by electronic /online w.e.f. 01.03.2016 vide rule 45 of the Income Tax Rules. Since there was some difficulty in e-filing, CBDT has taken due cognizance of such difficulty and extended the time limit vide its circular. Thus, Ld. CIT(A) should have accepted the

appeal and decided the appeal on merits when already multiple hearing have taken place. Accordingly, the appeal of the assessee is remanded back to the file of Ld. CIT(A) to decide the issue afresh on merits after giving sufficient opportunity of hearing to the assessee.

5. In the result, the appeal filed by the assessee is **allowed for statistical purposes.**

Orders pronounced in the open court on 30th August, 2022.

Sd/-
(Amit Shukla)
Judicial Member

मुंबई Mumbai;दिनांक Dated : 30.08.2022
Sr.PS. Dhananjay

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT- concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

आदेशानुसार/ BY ORDER,

उप/सहायकपंजीकार (Dy./ Asstt.Registrar)
आयकरअपीलीयअधिकरण, मुंबई/ ITAT, Mumbai