

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**"G" BENCH, MUMBAI**

**BEFORE SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER AND**  
**SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER**

**ITA No.1097/Mum./2022**  
**(Assessment Year : 2013-14)**

Sanjay Gupta  
Unit no.1, Woodstock, J.P. Road ..... Appellant  
Versova, Andheri (W), Mumbai 400 061  
PAN – AABPG8751F

v/s

Asstt. Commissioner of Income Tax  
Central Circle-8(4), Mumbai .....Respondent

Assessee by : Shri Kinjal Bhutta  
Revenue by : Shri Mahita Nair

Date of Hearing – 01/09/2022

Date of Order – 18.11.2022

**ORDER**

**PER SANDEEP SINGH KARHAIL, J.M.**

The present appeal has been filed by the assessee challenging the impugned order dated 31/03/2022, passed under section 250 of the Income Tax Act, 1961 (*'the Act'*) by the learned Commissioner of Income Tax (Appeals)-50, Mumbai [*'learned CIT(A)'*], for the assessment year 2013-14.

2. In this appeal, the assessee has raised the following grounds:

*"1) Ground No.1: The appellant filed his appeal on 22 April 2016 in paper form, apparently the tax representative of the appeal was not aware of the change of filing appeal in electronic form which came into effect on 1 March, 2016. The appellant is a firm director and producer and has absolutely no*

*knowledge of these technical things. He relies on his tax representatives for handling his tax matters.*

*2) Ground No.2: Immediately on receipt of the CIT(A) Order De 31 March, 2022, the appellant has filed the appeal in electronic form to rectify this mistake made earlier by the appellant's tax representative in the year 2016.*

*3) Ground No.3: Charging interests u/ss 2348 and 2340 of the Act. The appellant denies his liability in respect of the same.*

*It is prayed that the Order of the CIT(A) dt 31 March 2022 be set a side with the direction to hear the appeal for A.Y.2013-14 afresh.*

*The appellant craves leave to add to, to alter or to amend the above Grounds of Appeal."*

3. The only grievance of the assessee is against the dismissal of its appeal by the learned CIT(A) on the basis that same has not been electronically filed as per the provisions of section 249 r/w Rule 45 of the Income Tax Rules, 1962 (*'the Rules'*).

4. During the hearing, the learned Authorised Representative (*'learned AR'*), at the outset, submitted that the assessment order dated 22/03/2016 passed under section 143(3) of the Act was received by the assessee on 04/04/2016 and the assessee filed the appeal manually before the learned CIT(A) on 22/04/2016 i.e., within the prescribed limitation period. However, learned CIT(A) vide impugned order dated 31/03/2022 dismissed the appeal manually filed by the assessee on the basis that same is in paper form and not verified in the prescribed manner as per provisions of section 249 of the Act and therefore cannot be considered as a valid appeal. It is further submitted that the assessee, immediately thereafter, electronically filed the appeal before the learned CIT(A) on 05/05/2022, which is pending consideration before the learned CIT(A).

5. On the other hand, the learned Departmental Representative ('learned DR') submitted that learned CIT(A) rightly dismissed the appeal manually filed by the assessee as the same was not in the prescribed manner.

6. We have considered the rival submissions and perused the material available on record. In the present case, it is not in dispute that the assessee has challenged the additions made by the Assessing Officer before the learned CIT(A). It is also an admitted fact that the appeal initially filed by the assessee was within the limitation period. We find that the assessee instead of filing the appeal electronically, as per the provisions of Rule 45 as amended with effect from 01/03/2016, filed the appeal before the learned CIT(A) in paper form on 22/04/2016. The learned CIT(A) vide impugned order dated 31/03/2022 dismissed the appeal manually filed by the assessee, by observing as under:

*"4.3 In light of the above, the present appeal filed in paper form and not verified in the prescribed manner as per the provisions of Section 249 of the Act cannot be considered as valid appeal and it is treated as invalid, ab initio. Accordingly, there would be no cause to examine any other aspect of this appeal. Before parting, it would be worthwhile to mention that there is no bar to file the appeal again before the CIT(A) by ensuring the compliance to the statutory provisions stipulated in the section 249 of the Act read with Rule 45 of the Rules. In the result, the present appeal under consideration is held to be INVALID. For statistical purposes, it is treated as DISMISSED."*

7. Thereafter, the assessee immediately filed the appeal electronically on 05/05/2022 before the learned CIT(A) and also prayed for condonation of delay in filing the appeal through online process. In this regard, learned AR placed on record the e-filing acknowledgement along with Form No. 35 as electronically filed by the assessee before the learned CIT(A).

8. Since the assessee now has filed the appeal in the prescribed format as per the relevant Rules, therefore, we deem it appropriate to direct the learned CIT(A) to decide the appeal so filed by the assessee on merits after granting the opportunity to the assessee to explain the reason for delay in filing the same. In view of the above, the present appeal is allowed for statistical purposes.

9. In the result, the appeal by the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 18/11/2022

**Sd/-**  
**PRASHANT MAHARISHI**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**SANDEEP SINGH KARHAIL**  
**JUDICIAL MEMBER**

**MUMBAI, DATED: 18/11/2022**

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The CIT(A);
- (4) The CIT, Mumbai City concerned;
- (5) The DR, ITAT, Mumbai;
- (6) Guard file.

*Pradeep J. Chowdhury*  
*Sr. Private Secretary*

True Copy  
By Order

Assistant Registrar  
ITAT, Mumbai