

THE INCOME TAX APPELLATE TRIBUNAL
“D” Bench, Mumbai
Shri Shamim Yahya (AM) & Shri Pavan Kumar Gadale (JM)

I.T.A. No. 3868/Mum/2018 (Assessment Year 2010-11)
I.T.A. No. 3869/Mum/2018 (Assessment Year 2013-14)

M/s. Diagold Design Ltd. R-1, Cama Industrial Estate, Walbhat Road Goregaon-East Mumbai-400 063. PAN : AABCD3716A (Appellant)	Vs.	DCIT-12(2)(1) Aayakar Bhavan M.K. Road Churchgate Mumbai-400 020. (Respondent)
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Assessee by	Shri K.C. Tadarwal
Department by	Shri Dinesh Pande
Date of Hearing	03.12.2020
Date of Pronouncement	04.12.2020

ORDER

Per Bench :-

These appeals by the assessee is directed against respective orders of learned Commissioner of Income Tax (Appeals) [in short learned CIT(A)] and pertains to assessment years 2010-11 & 2013-14.

2. The preliminary issue raised is that learned CIT(A) erred in dismissing the appeal in limine on the technical ground that the was not filed electronically.

3. Brief facts of the case are that pursuant to the assessment orders both dated 31.3.2016 assessee filed appeals before the learned CIT(A). Learned CIT(A) noted that pursuant to the directions in circular dated in this regard, from the current assessment year the appeal before the learned CIT(A) was to be filed in electronic mode. The learned CIT(A) noted that since it was mandatory for the assessee to file appeal electronically, he dismissed the appeal in limine on the technical ground.

4. Against this order assessee is in appeals before us.
5. We have heard both the counsel and perused the records. We find that in the present case the learned CIT(A) has not adjudicated the appeal filed before him. He has dismissed the same as un-admitted on the ground that the assessee was required file the appeal electronically. Since it was not so done the learned CIT(A) dismissed the appeal. It is the plea of the assessee that this was the first year when it was required that the appeal should be filed electronically. It is prayed that there were some technical glitches and accordingly it is prayed that the appeal should be admitted and proper order on the adjudication of the same should be given.
6. Up on careful consideration we note that the Income Tax Act in section 249 does not directly provide for electronic filing of appeal. It is provided in section 249 read with Rule 45 of the Income Tax Rules read with the Notification No. SO-637(E) dated 1.3.2016 by CBDT that electronic filing of appeal before CIT(A) is prescribed. We find that the assessee's plea is that it was the first year of the requirement of the appeal to be filed electronically and there were some technical glitches.
7. Further we note that learned CIT(A) has himself admitted in his order that electronic appeal was duly filed before the date of his appellate order.
8. Accordingly in our considered opinion the request by learned Counsel of the assessee deserves proper consideration on the facts and circumstances referred above. We note that it is settled law that in the web of hypertechnicality justice should not take a backseat. As already noted the assessee had already filed the appeal electronically, which was before learned CIT(A) before his passed his appellate order.
9. Accordingly we remit the issue to the file of learned CIT(A). Learned CIT(A) directed to consider the issues raised on merits and pass a speaking order after giving proper notice to the assessee.

10. In the result assessee's appeals are allowed for statistical purposes.

Order pronounced under Rule 34(4) of the ITAT Rules by placing the result on notice board on 04.12.2020.

Sd/-
(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER

Mumbai; Dated : 04/12/2020

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai
6. Guard File.

//True Copy//

BY ORDER,

(Assistant Registrar)
ITAT, Mumbai

PS