THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

WRIT PETITION NO.21099 OF 2018

ORDER
(*Per Hon'ble Sri Justice Sanjay Kumar*)

The grievance of the petitioner company in this case is with regard to the action of the Commissioner of Income Tax (Appeals)-3, Hyderabad, the first respondent herein, in passing order dated 12.03.2018 in ITA No.0152/ITO-3(2)/Hyd/CIT(A)-3/2016-17, in relation to the assessment year 2013-14, whereby the petitioner-company's appeal was dismissed in *limini* on the ground that it had failed to e-file the said appeal as mandatorily required.

Having received instructions in the matter, Sri Vinod Kumar Tadakamalla, learned senior standing counsel for the Revenue, would inform this Court that the assessment order under appeal before the first respondent was dated 29.03.2016 and was received by the petitioner company on 04.04.2016. Aggrieved thereby, the petitioner company filed an appeal manually on 03.05.2016. While so, Rule 45 of the Income Tax Rules, 1962 (for brevity, 'the Rules of 1962') was amended with effect from 01.03.2016 requiring filing of appeals in e-format. However, owing to the glitches in implementation of this new procedure, the Central Board of Direct Taxes, Department of Revenue, Ministry of Finance, Government of India, issued Circular No.20/2016 dated 26.05.2016 seeking to mitigate the inconvenience caused to the taxpayers on account of the new requirement of mandatory e-filing of appeals and extended the time-limit for filing of the appeals which were to be filed by 15.05.2016 up to 15.06.2016. The Board further directed that all e-appeals filed within the extended period should be treated as appeals filed within time.

In the case on hand, it appears that the appeal filed by the petitioner company was not returned on the ground that it had not been e-filed in terms of the amended Rule 45 of the Rules of 1962. Having kept the appeal pending after numbering it, the Appellate Authority ultimately dismissed it on the ground that it was not e-filed. When the Central Board of Direct Taxes itself saw it fit to extend the time for e-filing of appeals, had the appeal filed by the petitioner company been returned on the ground that it was not filed as per the due procedure, the petitioner company could have taken steps to file it within the extended time. As the appeal was not returned to it and was numbered, on the other hand, the petitioner company was under the belief that its appeal would be entertained. This being the fact situation, the petitioner company cannot be penalized for not resorting to e-filing of its appeal within the extended time as stipulated by the Board.

In such circumstances, the writ petition is allowed to the extent of setting aside the order dated 12.03.2018 passed by the first respondent in ITA No.0152/ITO-3(2)/Hyd/CIT(A)-3/2016-17. The first respondent shall return the subject appeal to the petitioner company within one week from the date of receipt of a copy of this order and thereupon, the petitioner company shall e-file its appeal in accordance with the due procedure within two weeks thereafter. In the event the petitioner company files its appeal through e-format as directed *supra*, the Appellate Authority shall consider the said appeal on its own merits without reference to the limitation aspect as it is an admitted fact that the said appeal was originally filed within time. The petitioner company is at liberty to raise additional grounds in the said appeal at the time of personal hearing.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

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SANJAY KUMAR, J

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T.AMARNATH GOUD, J

27th JUNE, 2018

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