

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

**BEFORE SHRI AMIT SHUKLA, JM, &  
SHRI PRASHANT MAHARISHI, AM**

1. I.T.A. No. 682/Mum/2022/ Assessment Year: 2008-09)
2. I.T.A. No. 680/Mum/2022/Assessment Year: 2010-11)
3. I.T.A. No. 681/Mum/ /Assessment Year: 2013-14)

<b>M/s Pamstar Exports</b> DC 5102 Bharat Diamond Bourse, Bandra Kurla Complex, Bandra (East), Mumbai-400 051	Vs.	<b>ACIT - 19(2),</b> Matru Mandir, Tardeo Road, Mumbai-400 007
PAN No. AAEP4255A		
<b>(Appellant)</b>	:	<b>(Respondent)</b>

<b>Appellant by</b>	:	Shri Suchek Anchaliya, Ld. AR
<b>Respondent by</b>	:	Shri Praveen Shekhar, Ld. DR
<b>Date of Hearing</b>	:	03.08.2022
<b>Date of Pronouncement</b>	:	24.08.2022

आदेश / O R D E R

**Per Amit Shukla, Judicial Member:**

The aforesaid appeals have been filed by the assessee against the separate impugned order of even date 30.03.2022, passed by

Ld. CIT(A) - 50, Mumbai for the quantum of assessment passed u/s 147 for AY 2008-09 & 2010-11 and u/s 143(3) for AY 2013-14.

2. The common ground raised in all the appeals are that Ld. CIT(A) has erred in dismissing the appeal of the assessee 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. On merits, assessee has challenged the estimation of GP rate on alleged bogus purchases.

3. Before us, Ld. Counsel for the assessee submitted that assessee had filed the appeal manually within time before the Ld. CIT(A) and Ld. CIT(A) had conducted multiple hearing and the assessee had duly participated in the same both physically and e-portal and also a detail enquiry and hearing had already been done. However, Ld. CIT(A) without confronting it to the assessee has simply dismissed the appeal on the ground that assessee has not filed the appeal electronically and held that assessee was bound to

e-file the appeal instead of filing on paper form. Thus, he submitted that this matter should be remitted back to the file of Ld. CIT (A) for deciding afresh.

4. On the other hand, 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.

5. After considering the aforesaid undisputed fact that assessee has filed the appeal physically on 26.04.16 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.

6. In the result, all the appeals filed by the assessee are **allowed for statistical purposes.**

*Orders pronounced in the open court on 24<sup>th</sup> August, 2022.*

*Sd/-*

(Prashant Maharishi)  
Accountant Member

*Sd/-*

(Amit Shukla)  
Judicial Member

Mumbai; Dated :  
*Sr.PS. Dhananjay*

24.08.2022

**Copy of the Order forwarded to :**

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

BY ORDER,

(Dy./Asstt.Registrar)

**ITAT, Mumbai**