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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 4920/2021 and CM APPL. 15113/2021 (for interim directions)

ANUP KUMAR MITTAL

..... Petitioner

Through : Mr. Salil Kapoor, Mr. C.S. Anand,
Mr.Sumit Lalchandani and Mr.Vibhu
Jain, Advocates.

versus

PR COMMISSIONER OF
INCOME TAX -20 & ORS.

..... Respondents

Through : Mr. Abhishek Maratha, Senior
Standing Counsel for Revenue.
Mr. Mithun Nandkumar, Additional
Commissioner of Income Tax, Range-
58, New Delhi through video
conferencing.
Mr. Jaspreet Singh Minhas,
Commissioner of Income Tax
(Appeals), Unit-19, New Delhi
through video conferencing.

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Date of Decision: 02nd September, 2022

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

1. Today, Mr. Jaspreet Singh Minhas, Commissioner of Income Tax (Appeals) Unit-19, New Delhi/Respondent No. 3 and Mr.Mithun



Nandkumar, Additional Commissioner of Income Tax, Range-58, New Delhi on behalf of Principal Commissioner of Income Tax-20/Respondent No. 1 have joined proceedings by way of online video link.

2. Mr. Jaspreet Minhas states that from the record, it has been confirmed that the petitioner had filed an appeal in Form 35 on 13th July, 2016. He clarifies that though, as per the physical record, there is pendency of the appeal yet there is no electronic record to the said effect as the said appeal has not been registered and uploaded.

3. This court is of the view that as the petitioner had filed the electronic appeal, there is no default on his part. If the appeal has not been registered and uploaded by the Department, the petitioner cannot be blamed for the same. It is settled law that an assessee cannot be penalised or suffer adverse consequences for default on the part of the respondent-revenue.

4. It is also pertinent to mention that a Coordinate Bench of this court in ***W.P.(C) No. 2291/2022*** titled ***Shyamsunder Sethi vs. PR. Commissioner of Income Tax-10 & Ors.*** decided on 3rd March, 2021 has held that “An appeal would be "pending" in the context of Section 2 (1) (a) of the 2020 Act when it is first filed till its disposal.”

5. In view of the aforesaid, the impugned order attached as Annexure ‘P-10’ is set aside and the Principal Commissioner of Income Tax-20/respondent No. 1 is directed to ensure that the electronic appeal filed by the petitioner *qua* the Assessment Year 2013-14 on 13th July, 2016 is uploaded and registered on the system and the petitioner is given the benefit for the DTVSV Scheme within four weeks.



6. With the aforesaid directions, the present writ petition and the application stand disposed of.

MANMOHAN, J

MANMEET PRITAM SINGH ARORA, J

SEPTEMBER 2, 2022
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HIGH COURT OF DELHI



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