

## **Opportunity to be given to assessee to rectify defects before treating ITR as invalid: ITAT**

**Summary – The Pune ITAT in a recent case of Husco Hydraulics (P.) Ltd., (the Assessee) held that opportunity should be given to assessee to rectify defects before treating ITR as invalid**

### **Facts**

- The assessing officer held the return filed by assessee as invalid since Form 3CEB was not enclosed. The assessing officer didnot give any opportunity to assessee before holding the return as invalid.
- The Commissioner (Appeals) held that the return filed by the assessee without report of Accountant in prescribed Form No. 3CEB as required under section 92E was valid. He thus allowed assessee's claim for carry forward of loss raised in said return.
- On revenue's appeal:

### **Held**

- The HC held that before a return is held to be invalid by virtue of any defect, it is incumbent upon the Assessing Officer to give an opportunity to the assessee to rectify said defect within a specified time.
- In the instant case, since the Assessing Officer has not given any notice/intimation to the assessee for removing the defect, the Assessing Officer cannot declare the return invalid.
- There is no merit in the ground raised by the revenue. The same is dismissed, accordingly.