

आयकर अपीलीय अधिकरण, मुंबई न्यायपीठ, "बी", मुंबई।

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCHES, 'B' MUMBAI**

**श्री जोगिन्दर सिंह, न्यायिक सदस्य एवं
श्री जी. मंजूनाथ, लेखा सदस्य, के समक्ष**

**Before Shri JOGINDER SINGH, Judicial Member, and
Shri G. MANJUNATHA, Accountant Member**

**ITA No.1365/Mum/2017
Assessment Year: 2009-10**

Navin D Goel, Plot No.76, Nandalaya, Sector-21 Nerul (East), Navi Mumbai-400706	बनाम/ Vs.	Income Tax Officer-15(2)(4), Mumbai
(निर्धारिती / Assessee)		(राजस्व / Revenue)
PAN. No.AHCPG2554L		

निर्धारिती की ओर से / Assessee by	Shri Mandar Vaidya
राजस्व की ओर से / Revenue by	Shri S.K. Mishra-DR

सुनवाई की तारीख / Date of Hearing :	18/09/2018
आदेश की तारीख /Date of Order:	04/10/2018

आदेश / O R D E R

Per Joginder Singh (Judicial Member)

The assessee is aggrieved by the impugned order dated 08/11/2016 of the Ld. First Appellate Authority, Mumbai, rejecting the explanation of the assessee with respect to cash deposit of Rs.21 lakhs.

2. During hearing, the ld. counsel for the assessee, Shri Mandar Vaidya, contended that the impugned amount was deposited in the bank account out of earlier cash withdrawn from the bank and cash in hand available with the assessee. It was contended that reasonable opportunity was not provided to the assessee. It was also pleaded that part of the cash was withdrawn four days prior to the cash deposited in the bank. The ld. counsel for the assessee invited our attention to page-16 of the paper book. On the other hand, the ld. DR, Shri S. K. Mishra, though defended the addition but also contended that if the version of the assessee is accepted, it has to be examined at the level of the Ld. Assessing Officer.

2.1. We have considered the rival submissions and perused the material available on record. The facts, in brief, are that the assessee is an individual, engaged in the business

of trading in iron and steel, declared income of Rs.4,97,806/- in his return of income. The Ld. Assessing Officer made addition of Rs.21 lakhs (cash found to be deposited in the bank account). The stand of the assessee is that it is out of existing cash withdrew from the bank and in the cash in hand available with the assessee. The ld. counsel invited our attention to the letter dated 22/12/2011 and page-16 of the paper book. Considering the totality of facts, and principle of natural justice, we deem it appropriate to remand this appeal to the file of the Ld. Assessing Officer to examine the claim of the assessee and decide afresh. The assessee is directed to furnish the necessary evidence with respect to source of cash. The appeal of the assessee is allowed for statistical purposes only.

This order was pronounced in the open court in the presence of the ld. representatives from both sides at the conclusion of the hearing on 18/09/2018.

Sd/-

(G. Manjunatha)

लेखा सदस्य / ACCOUNTANT MEMBER

मुंबई Mumbai; दिनांक Dated : 04/10/2018

Shekhar. P.SI/नि.स.

Sd/-

(Joginder Singh)

न्यायिक सदस्य / JUDICIAL MEMBER

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant (Respective assessee)
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT, Mumbai.
4. आयकर आयुक्त / CIT(A)- , Mumbai,
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR,
ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai