

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर  
IN THE INCOME TAX APPELLATE TRIBUNAL,  
JAIPUR BENCHES (SMC), JAIPUR  
श्री रमेश सी शर्मा, लेखा सदस्य के समक्ष  
BEFORE: SHRI RAMESH C SHARMA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No. 1238/JP/2018  
निर्धारण वर्ष / Assessment Year: 2009-10

Shri Mitesh Chandra Kaushik, 407, DBC Tower, Opp-Hotel Gangaur, Near Pinkcity Petrol Pump, Jaipur.	बनाम Vs.	I.T.O., Ward-2, Churu.
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: ABSPK 7023 L		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by: Shri P.C. Parwal (CA)  
राजस्व की ओर से / Revenue by : Shri Manmohan Kandpal (ACIT)

सुनवाई की तारीख / Date of Hearing : 20/11/2019  
उदघोषणा की तारीख / Date of Pronouncement : 21/11/2019

आदेश / ORDER

PER: R.C. SHARMA, A.M.

This is an appeal filed by the assessee against the order of Id.CIT(A)-3, Jaipur dated 24/08/2018 for the A.Y. 2009-10 in the matter of order passed U/s 143(3) of the Income Tax Act, 1961 (in short, the Act).

2. It was argued by the Id AR of the assessee that the Id. CIT(A) has dismissed the appeal on the ground of delay of 502 days in filing the

appeal before him. The Id AR has explained the reasons for delay but the Id. CIT(A) has not accepted the reasons and dismissed the appeal by not condoning the delay in filing the appeal.

3. I have considered the rival contentions and found from the record that the addition was made by the A.O. in respect of the cash amount found to be deposited in the bank account of the assessee. At the time of assessment, the assessee could not explain the source of cash deposited in the bank account. At the advice of his counsel, the assessee accepted the addition and did not file the appeal. Subsequently, it came to notice of the assessee that the amount so deposited in the bank account was withdrawn from his another bank account. Our attention was invited to the statement of bank account of CITY Bank wherefrom the assessee has withdrawn Rs. 9.00 lacs in cash on 22/11/2008 and Rs. 8.00 lacs on 24/11/2008. While framing the assessment, the A.O. has pointed out that on 24/11/2008, the assessee has deposited a sum of Rs. 17.00 lacs in his savings bank account No. 66747 of Union Bank of India, the source of which could not be explained. It was also submitted that the additional evidence in the form of bank statement of City Bank showing the respective withdrawals of cash was also furnished before the Id. CIT(A) under Rule 46A of the Income Tax Rules, 1962 (in short, the Rules),

however, he did not accept the same and dismissed the appeal for delay in filing the appeal.

4. After considering the entire material placed on record, I found that the delay in filing the appeal was on reasonable ground. Since the assessee has placed on record the documentary evidence in support of availability of cash through withdrawal from his own bank account, in all fairness, I restore the matter back to the file of A.O. for deciding the issue afresh after considering the bank statement of City Bank so filed by the assessee indicating withdrawal of cash on the respective dates of deposit.

5. In the result, appeal of the assessee is allowed for statistical purposes only.

Order pronounced in the open court on 21<sup>st</sup> November, 2019

Sd/-  
(रमेश सी शर्मा)  
(RAMESH C SHARMA)  
लेखा सदस्य / Accountant Member

जयपुर / Jaipur  
दिनांक / Dated:- 21<sup>st</sup> November, 2019

\*Ranjan

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

1. अपीलार्थी / The Appellant- Shri Mitesh Chandra Kaushik, Jaipur.
2. प्रत्यर्थी / The Respondent- The I.T.O., Ward-2, Churu.
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त(अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्ड फाईल / Guard File (ITA No. 1238/JP/2018)

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar