

आयकर अपीलिय अधिकरण, "सी" न्यायपीठ, चेन्नई  
IN THE INCOME-TAX APPELLATE TRIBUNAL 'C' BENCH, CHENNAI  
श्री जॉर्ज माथन, न्यायिक सदस्य एवं श्री एस जयरामन, लेखा सदस्य के समक्ष  
Before Shri George Mathan, Judicial Member &  
Shri S. Jayaraman, Accountant Member

**I.T.A. Nos.97 & 98/Chny/2020**  
निर्धारण वर्ष/**Assessment Year:2010-11 & 2013-14**

M/s. Hi-Tech Rock Products &  
Aggregates Ltd.,  
Mount Poonamalle Road,  
P.O. Box 979, Manapakkam,  
Chennai 600 089.

The Deputy Commissioner of  
Income Tax,  
Company Circle II(2),  
Chennai.

**[PAN: AACCH0917J]**

(अपीलार्थी /Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Ms. N.V. Lakshmi, Advocate  
प्रत्यर्थी की ओर से/Respondent by : Ms. S. Vijaya Prabha, Addl. CIT  
सुनवाई की तारीख/ Date of hearing : 27.05.2020  
घोषणा की तारीख /Date of Pronouncement : 27.05.2020

**आदेश /O R D E R**

**PER GEORGE MATHAN, JUDICIAL MEMBER:**

These two appeals are filed by the assessee against the separate orders of the Id. Commissioner of Income Tax (Appeals)-6, Chennai in ITA No. 5/CIT(A)-6/2017-18 dated 19.11.2019 for the assessment year 2010-11 and ITA No. 71/CIT(A)-6/2016-17 dated 19.11.2019 for the assessment year 2013-14. Ms. N.V. Lakshmi, Advocate represented on behalf of the assessee and Mrs. S. Vijaya Prabha, Addl. CIT represented on behalf of the Revenue.

2. It was submitted by the Id. AR that the assessee has filed its appeals in time. Nearly after two years of filing of the appeals and after hearing the assessee on merits, the Id. CIT(A) has dismissed the appeals of the assessee on technical grounds without granting an opportunity to the assessee to correct the technical defects. It was the submission that the technical mistakes pointed out were mistake in the verification, mistake in the disputed demand as noted in Form 35 and inadvertently mentioning of the section number in the impugned Form 35. It was a prayer that the assessee may be granted an opportunity to rectify the mistake before the Id. CIT(A) and the Id. CIT(A) may be directed to decide the issues on merits in the appeals of the assessee.

3. In reply, the Id. DR submitted that the adjudication in respect of the technical matters is purely factual and it cannot be considered as standard operating procedure or as covered matter passed in similar circumstances and issues have been restored to the file of the Id. CIT(A). She vehemently supported the order of the Id. CIT(A). It was the submission that the order of the Id. CIT(A) is liable to be upheld.

4. We have considered the rival submissions. A perusal of the facts of the case clearly shows that the Id. CIT(A) has dismissed the assessee's appeal on mistakes committed by the assessee in the Form 35, which has been filed, which are technical issues. It is very much known to law that

when substantial justice is pitted against technicalities then substantial justice is to prevail. It is further noticed that the assessee has not been put to notice in respect of defect in the appeal filed by the assessee. This being so, in the interest of natural justice, we are of the view that the issue must be restored to the file of the Id. CIT(A) for readjudication, and we do so. The Id. CIT(A) shall grant the assessee adequate opportunity to rectify all such defects of technicalities as pointed out by him. After rectification of the defects, the Id. CIT(A) shall adjudicate the appeals of the assessee on merits. If the assessee does not rectify the defects within sixty days of the notice of defects being intimated by the Id. CIT(A), the Id. CIT(A) shall be at liberty to draw due inference.

3. In the result, both the appeals filed by the assessee are partly allowed for statistical purposes.

Order pronounced on 27<sup>th</sup> May, 2020 at Chennai.

Sd/-  
(S. JAYARAMAN)  
ACCOUNTANT MEMBER

Sd/-  
(GEORGE MATHAN)  
JUDICIAL MEMBER

Chennai, Dated, the 27.05.2020

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant, 2. प्रत्यर्थी/Respondent, 3. आयकर आयुक्त (अपील)/CIT(A), 4. आयकर आयुक्त/CIT, 5. विभागीय प्रतिनिधि/DR & 6. गार्ड फाईल/GF.