

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL, 'A' BENCH, CHENNAI
श्री धुव्वुरु आर.एल रेड्डी, न्यायिक सदस्य एवं श्री जी. मंजुनाथ, लेखा सदस्य के समक्ष
BEFORE SHRI DUVVURU RL REDDY, JUDICIAL MEMBER
AND SHRI G.MANJUNATHA, ACCOUNTANT MEMBER

आयकर अपील सं./I.T.A.No.315/Chny/2020

(निर्धारणवर्ष / Assessment Year: 2015-16)

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| M/s. J.K.Supplies, No.20, Alagesan Street, West Tambaram, Chennai-600045. | Vs | Assistant Commissioner of Income Tax, Non-Corporate Circle-22, Tambaram Chennai-600 045. |
| PAN : AADFJ9401H | | |
| (अपीलार्थी/Appellant) | | (प्रत्यर्थी/Respondent) |

आयकरअपीलसं./I.T.A.No.317/Chny/2020

(निर्धारणवर्ष / Assessment Year: 2015-16)

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| M/s. Prakash.Supplies, No.20, Alagesan Street, West Tambaram, Chennai-600045. | Vs | Assistant Commissioner of Income Tax, Non-Corporate Circle-22, Tambaram Chennai-600 045. |
| PAN : AAHFP4527C | | |
| (अपीलार्थी/Appellant) | | (प्रत्यर्थी/Respondent) |

आयकरअपीलसं./I.T.A.No.318/Chny/2020

(निर्धारणवर्ष / Assessment Year: 2011-12)

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| M/s. R.S.Enterprises No.20, Alagesan Street, West Tambaram, Chennai-600045. | Vs | Assistant Commissioner of Income Tax, Non-Corporate Circle-22, Tambaram Chennai-600 045. |
| PAN : AAHFR 8636G | | |
| (अपीलार्थी/Appellant) | | (प्रत्यर्थी/Respondent) |

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| अपीलार्थीकीओरसे/ Appellant by | : | Mr. K.Balasubramanian, Advocate |
| प्रत्यर्थीकीओरसे/Respondent by | : | Mr. Suresh Periasamy,JCIT |

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|-------------------------------------|---|------------|
| सुनवाईकीतारीख/Date of hearing | : | 05.11.2020 |
| घोषणाकीतारीख /Date of Pronouncement | : | 04.12.2020 |

आदेश / ORDER**PER BENCH:**

These three appeals are filed by different assessees against the separate, but identical orders of Commissioner of Income Tax (Appeals)–10, Chennai dated 10.01.2020, 10.01.2020 and 23.01.2020 and pertain to assessment years 2015-16, 2015-16 and 2011-12 respectively. Since, the facts are identical and issues are common, for the sake of convenience, they were clubbed, heard together and disposed of by way of this consolidated order.

2. We have heard both the parties and perused the material available on record along with the order of the learned CIT(A). We find that the learned CIT(A) has dismissed the appeal filed by the assessee on the ground that although the assessee is covered under Rule 45(2)(a)(i) of Income Tax Rules, 1962, the present appeal has been filed under rule 45(2)(a)(ii) of I.T.Rules, 1962, in contravention of prescribed rules for filing appeal before the first appellate authority.

3. Before us, the learned AR for the assessee submitted that new rules has been notified for filing appeals by using DSC and many people are not aware of the procedure for filing appeal and consequently, assessee has filed appeal by EVC through Aadhaar OTP but the such appeal has been filed within the time prescribed under the Act. No doubt, the appeal should be filed in accordance with the prescribed procedure provided under the rule. In case, the appeal is not filed in accordance with the prescribed rules, the said appeal becomes invalid and not maintainable. However, when the assessee explains the reasons for defects in filing the appeal and such reasons are bonafide, then it is the duty of the appellate authority to provide opportunity to the assessee to rectify mistakes in filing the appeal, because during transition period many people may not aware of the changes made in the Rules for filing appeal. Moreover, while deciding the appeal instead of look into technicalities substantial issue involved in appeal needs to be considered to advance substantial justice. In this case, the learned CIT(A) dismissed the appeal filed by the assessee on technical grounds, even though the assessee rectified the said mistakes by filing revised Form 35 by using DSC. Therefore, we are of the

considered view that learned CIT(A) has erred in dismissing these appeals filed by the assesseees on technical grounds and hence, we set aside the orders passed by the learned CIT(A) and restore these appeals to the file of the learned CIT(A) to decide the appeals on merits in accordance with law.

4. In the result, these three appeals filed by the assesseees are allowed for statistical purposes.

Order pronounced in the open court on 4th December, 2020

Sd/-

(धुव्वुरु आर. एल रेड्डी)
(Duvvuru RL Reddy)
न्यायिक सदस्य /Judicial Member

Sd/-

(जी. मंजुनाथ)
(G.Manjunatha)
लेखा सदस्य / Accountant Member

चेन्नई/Chennai,

दिनांक/Dated 4th December, 2020

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आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. Appellant
2. Respondent
3. आयकर आयुक्त (अपील)/CIT(A)
4. आयकर आयुक्त/CIT
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.