

**आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई**  
**IN THE INCOME TAX APPELLATE TRIBUNAL, 'C' BENCH, CHENNAI**  
**श्री महावीर सिंह, उपाध्यक्ष एवं श्री जी. मंजुनाथ, लेखा सदस्य के समक्ष**  
**BEFORE SHRI MAHAVIR SINGH, VICE-PRESIDENT**  
**AND SHRI G.MANJUNATHA, ACCOUNTANT MEMBER**

**आयकरअपीलसं./I.T.A.No.1348/Chny/2019**

(निर्धारणवर्ष / Assessment Year: 2010-11)

Sri Nehru Bazaar Swetamber Murti Pukaj Jain Sangh Trust, 242 A, Kilpauk Garden Road, Chennai-600 010.	Vs	The Income Tax Officer, Non-Corporate Ward-12(1) Chennai.
PAN: AAITS 6772K		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	None
प्रत्यर्थीकीओरसे/Respondent by	:	Mr. G.Johnson, Addl.CIT

सुनवाईकीतारीख/Date of hearing	:	20.09.2021
घोषणाकीतारीख /Date of Pronouncement	:	20.09.2021

**आदेश / ORDER**

**PER G.MANJUNATHA, AM:**

This appeal filed by the assessee is directed against the order of the learned CIT(A-13, Chennai dated 01.12.2019 and pertains to assessment year 2010-11.

2. At the outset, we find that appeal filed by the assessee is time barred by 2 days. Since it is a meager delay, we condone delay in filing of appeal by the assessee, after hearing learned DR, and admit the same for adjudication.

3. The assessee has raised following grounds of appeal:-

*“1. The order of the learned Commissioner of Income Tax(Appeals) concurring the order of the learned Assessing officer is against the facts of the case and principles of natural justice.*

*2. The learned Commissioner of Income Tax (Appeals) failed to appreciate the fact that the trust is a religious charitable trust with a jain temple in it.*

*3. The learned Commissioner of Income Tax (Appeals) failed to appreciate the fact that the corpus donation and hundi collections were deposited in the bank.*

*4. The learned Commissioner of Income Tax (Appeals) failed to understand the fact that the arbitrary addition of all the cash deposits was bad in law and against the principles of natural justice.”*

4. Brief facts of the case are that the assessee is a religious charitable trust. The assessee's case was reopened u/s.143 r.w.s 147 of the Income Tax Act, 1961, on the basis of information available with the Department that the assessee has deposited more than Rs.10 lakhs in savings bank account during financial year 2009-10 relevant to assessment year 2010-11. The assessment has been completed u/s.144 r.w.s. 147 of the Income Tax Act, 1961, on 28.12.2017 and the Assessing Officer has made addition of Rs.32,46,000/- towards unexplained cash deposit in savings bank account u/s.68 of the Income Tax Act, 1961. The assessee preferred an appeal before the CIT(A), but could not appear which is evident from

para 3 of the learned CIT(A) order that despite number of opportunity of hearing was provided, but the assessee neither appeared nor filed any details. Therefore, the CIT(A) disposed off appeal filed by the assessee ex-parte by following certain judicial precedents, including decision of the Hon'ble Delhi High Court in the case of CIT Vs. Multiplan (India) Pvt.Ltd. 38 ITD 320(Del). Aggrieved by the CIT(A) order, the assessee is in appeal before us.

5. None appeared for the assessee. We have heard learned DR and perused materials available on record. Admittedly, assessment proceedings before the Assessing Officer as well as appellate proceedings before the learned CIT(A) are ex-parte, the assessee neither appeared nor furnished any details to justify cash deposits made in savings bank account. But, fact remains that on perusal of appellate order, the learned CIT(A) dismissed appeal filed by the assessee for non-prosecution without discussing the issue on merits. No doubt, the appellate authority has left with no option, but to dispose off appeal, when the appellant has not appeared despite notice of hearing was provided, but such appeal should be disposed off on merits on

the basis of materials available on record. In this case, appeal of the assessee was disposed off on technical grounds for non-prosecution without considering issue on merits. Therefore, to give one more opportunity to the assessee, the appeal is set aside to the file of learned CIT(A) to decide issue involved in the appeal on merits, in accordance with law.

6. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 20<sup>th</sup> September, 2021

Sd/-  
(महावीर सिंह)  
(Mahavir Singh)  
उपाध्यक्ष/ Vice-President

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

चेन्नई/Chennai,  
दिनांक/Dated 20<sup>th</sup> September, 2021  
DS

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.