

**आयकर अपीलीय अधिकरण 'डी' न्यायपीठ चेन्नई में।**

**IN THE INCOME TAX APPELLATE TRIBUNAL**

**"D" BENCH, CHENNAI**

**माननीय श्री महावीर सिंह, उपाध्यक्ष एवं**

**माननीय श्री मनोज कुमार अग्रवाल, लेखक सदस्य के समक्ष।**

**BEFORE HON'BLE SHRI MAHAVIR SINGH, VICE PRESIDENT AND**

**HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM**

आयकर अपील सं./ **ITA No. 881/Chny/2020**

(निर्धारण वर्ष / **Assessment Year: 2017-18**)

<b>Shri Jay A. Shah</b> L. Nahata & Co. 120, Nyniappa Naicken Street, Park Town, Chennai – 600 003.	<b>बनाम/</b> Vs.	<b>ACIT</b> NCW 4(1), 121, Mahatma Gandhi Road, Chennai – 600 034.
स्थायी लेखा सं./ जी आइ आर सं./ <b>PAN/GIR No. HFXPS-2659-N</b>		
(पीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

अपीलार्थी की ओर से/ <b>Appellant by</b>	:	Shri Lakshmidhanda Nahata (CA) – Ld. AR
प्रत्यर्थी की ओर से/ <b>Respondent by</b>	:	Shri G. Johnson (Addl. CIT) – Ld. DR

सुनवाई की तारीख/ <b>Date of Hearing</b>	:	23-03-2022
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	23-03-2022

**आदेश / ORDER**

**Manoj Kumar Aggarwal (Accountant Member)**

1. Aforesaid appeal by assessee for Assessment Year (AY) 2017-18 arises out of the order of learned Commissioner of Income Tax (Appeals)-10, Chennai [CIT(A)] dated 14-09-2020 in the matter of assessment framed by Ld. Assessing Officer [AO] u/s. 143(3) of the Act on 07-11-2019. One of the grounds raised in the appeal is violation of

principle of natural justice since impugned order has dismissed the appeal on technical grounds. The Ld. AR pleaded for another opportunity of hearing which has been opposed by Ld. Sr. DR.

2. The material facts are that the assessee was assessed u/s 143(3). The assessee deposited cash of Rs.2.41 Lacs which was added to its income u/s 68 in the absence of any satisfactory documentary evidences forthcoming from the assessee. Though the assessee preferred further appeal, however, the appeal was dismissed on the ground that only first page of the assessment order was filed alongwith Form No.35. Therefore, the appeal was held to be technically defective and not maintainable. Aggrieved, the assessee is in further appeal before us.

3. We find that the appeal has been held to be defective since the assessee did not e-file complete assessment order. However, keeping in view the fact that the assessee is a resident individual and it could not file documentary evidences during assessment proceedings, we deem it fit to grant another opportunity to the assessee to substantiate the source of cash deposit of Rs.2.41 Lacs. Since the matter is factual one, the assessment stands restored back to the file of Ld. AO for denovo assessment with a direction to the assessee to substantiate its case failing which Ld. AO shall be at liberty to proceed with the assessment on the basis of material on record.

4. The appeal stands allowed for statistical purposes.

Order pronounced on 23<sup>rd</sup> March, 2022.

**Sd/-**

**(MAHAVIR SINGH)**

**उपाध्यक्ष /VICE PRESIDENT**

**Sd/-**

**(MANOJ KUMAR AGGARWAL)**

**लेखक सदस्य /ACCOUNTANT MEMBER**

चेन्नई/ Chennai; दिनांक/ Dated : 23-03-2022

**JPV**

**आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त (अपील)/CIT(A)
4. आयकरआयुक्त/CIT
5. विभागीयप्रतिनिधि/DR
6. गार्डफाईल/GF