

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
'A' BENCH, CHENNAI

श्री महावीर सिंह, उपाध्यक्ष एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष

**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND  
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: **3294/CHNY/2019**

निर्धारण वर्ष /Assessment Year: 2011-12

**Smt. Damayanti  
Devakinandan Harlalka,**  
No.6A, Govindan Street,  
Ayyavoo Colony,  
Chennai – 600 029.

**The ACIT,**  
vs. Non-Corporate Circle -10(1)  
Chennai.

**PAN: AABPH 2694E**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by  
प्रत्यर्थी की ओर से/Respondent by

: Shri D. Anand, Advocate  
: Shri AR.V. Sreenivasan, Addl.CIT

सुनवाई की तारीख/Date of Hearing

: 03.08.2022

घोषणा की तारीख/Date of Pronouncement

: 03.08.2022

**आदेश /O R D E R**

**PER MAHAVIR SINGH, VICE PRESIDENT:**

This appeal by the assessee is arising out of the order of Commissioner of Income Tax (Appeals)-12, Chennai in ITA No.140/CIT(A)-12/2018-19 dated 27.09.2019. The assessment was framed by the ACIT, Non-Corporate Circle – 10(1), Chennai for

the assessment year 2011-12 u/s.143(3) r.w.s. 147 of the Income Tax Act, 1961 (hereinafter the 'Act') vide order dated 18.12.2018.

2. At the outset, the Id.counsel for the assessee took us through Form No.35 filed before CIT(A) along with statement of facts and grounds of appeal. The Id.counsel for the assessee stated that the specific ground of appeal regarding reopening was raised before CIT(A) i.e., Ground No.2 which reads as under:-

“The Ld.AO erred in re-opening the assessment without any additional tangible material to show that income has escaped assessment.”

The Id.counsel stated that the CIT(A) has not at all adjudicated the ground of reopening. When a query was put to Id. Senior DR, whether the CIT(A) has adjudicated the ground regarding reopening of assessment, he could not answer.

3. After hearing rival contentions and going through the facts of the case, we are of the view that the issue of reopening is not adjudicated by the CIT(A) and hence, we set aside the order of CIT(A) and remand the matter back to his file for adjudication of reopening first and subsequently on merits again, in case the assessee is able to explain genuineness of transaction, credit worthiness and identity of the parties. In term of the above, the

order of CIT(A) is set aside and the matter is remanded back to his file.

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

Order pronounced in the open court on 3<sup>rd</sup> August, 2022 at Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

**(MANOJ KUMAR AGGARWAL)**

लेखा सदस्य /ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

**(MAHAVIR SINGH)**

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 3<sup>rd</sup> August, 2022

**RSR**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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