

आयकर अपीलीय अधिकरण न्यायपीठ “एक-सदस्य” मामला रायपुर में

**IN THE INCOME TAX APPELLATE TRIBUNAL
RAIPUR BENCH “SMC”, RAIPUR**

**श्री पार्थ सारथी चौधरी, न्यायिक सदस्य के समक्ष
BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER**

आयकर अपील सं./ITA No.240/RPR/2024

निर्धारण वर्ष / Assessment Year : 2017-18

Manoj Kumar Jain (HUF)
Aapapura, Bhoipara,
Durg (C.G.)-491 001
PAN: AALHM0106J

.....अपीलार्थी / Appellant

बनाम / V/s.

The Income Tax Officer-2(2),
Bhilai (C.G.)

.....प्रत्यर्थी / Respondent

Assessee by : Shri Ravi Agrawal, CA
Revenue by : Dr. Priyanka Patel, Sr. DR

सुनवाई की तारीख / Date of Hearing : 13.10.2025

घोषणा की तारीख / Date of Pronouncement : 14.10.2025

आदेश / ORDER**PER PARTHA SARATHI CHAUDHURY, JM**

This is a remand matter from the Hon'ble Jurisdictional High Court vide order passed in **TAXC No.61 of 2025, dated 07.04.2025** wherein, the Hon'ble High Court has held and observed as follows:

“15. Coming to the facts of the present case, in light of the parameters laid down by their Lordships of the Supreme Court and also keeping in view the order passed by this Court in Shrivastava Associates (Supra), it is quite vivid that the ITAT was greatly influenced with the fact that application for additional evidence was not made either before the Assessing Officer or CIT (Appeals) and rejected the said application without considering the fact as to whether the documents filed by the assessee are required for just and proper disposal of the appeal in light of Rule 29 of the ITAT Rules. Hence, the ITAT has committed grave legal error in rejecting the application summarily and dismissing the appeal.

16. Consequently, the impugned order rejecting the application filed under Rule 29 of the ITAT Rules is set aside and subsequently, the appellate order dated 08.10.2024 is also set aside. The application under Rule 29 of the ITAT Rules for production/admission of additional evidence as well as the appeal is restored for hearing and disposal afresh in accordance with law, expeditiously.”

2. As per the aforesaid order, the Hon'ble High Court has given clear direction in the interest of substantive justice and had remanded the matter to the Tribunal for disposal afresh in accordance with law the said application filed under Rule 29 of the Income Tax Appellate Tribunal Rules, 1963.

3. Before proceeding any further, it would be relevant to cull out Rule 29 of the Income Tax Appellate Tribunal Rules, 1963 which reads as follows:

“[Production of additional evidence before the Tribunal.

29. The parties to the appeal shall not be entitled to produce additional evidence either oral or documentary before the Tribunal, but if the Tribunal requires any document to be produced or any witness to be examined or any affidavit to be filed to enable it to pass orders or for any other substantial cause, or , if the income-tax authorities have decided the case without giving sufficient opportunity to the assessee to adduce evidence either on points specified by them or not specified by them, the Tribunal, for reasons to be recorded, may allow such document to be produced or witness to be examined or affidavit to be filed or may allow such evidence to be adduced.]”

4. In this regard, the Ld. Counsel for the assessee has given petition for admission of additional evidences under Rule 29 of the Income Tax Appellate Tribunal Rules, 1963, wherein a certificate has been furnished by the assessee stating that these additional evidences were furnished neither before the A.O nor before the Ld. CIT(Appeals)/NFAC. For the sake of completeness, the application for admission of additional evidences filed on 10.10.2025 is extracted as follows:

Respectfully submitted as under:

1. That, the appellant has been carrying on the business of pawning (girvi and money lending) since 2013 and registered under the Chhattisgarh Sahukari Adhinyam, 1943 in the office of Tehsildar & Sub Registrar, Durg for this purpose.
2. That, the appellant wants to furnish following documents as additional evidences.

INDEX TO ADDITIONAL EVIDENCES

S	DOCUMENTS / EVIDENCES	PAGE-NO.
		1 - 2
1	Bank statement of SBI (01/04/2016 to 31/03/2017)	3 - 18
2	Cash Book for FY 2015-16 (AY 2016-17)	19 - 38
3	Cash Book for FY 2016-17 (AY 2017-18)	39 - 56
4	Girvi Register for FY 2015-16 (AY 2016-17)	57 - 78
5	Girvi Register for FY 2016-17 (AY 2017-18)	79 - 83
6	ITR and Computation for AY 2016-17	84 - 85
7	Balance Sheet & P/L A/c for FY 2015-16 (AY 2016-17)	86 - 88
8	ITR and Computation for AY 2017-18	89 - 90
9	Balance Sheet & P/L A/c for FY 2016-17 (AY 2017-18)	91 - 93
10	ITR and Computation for AY 2018-19	

3. That, all these documents could not be furnished either before the AO and CIT(A) and therefore the appellant wants to furnish all these documents before Hon'ble Bench as additional evidences

It is requested to admit these additional evidences and oblige

(Manoj Kumar Jain)
Karta of appellant HUF
Date : / / 2025



5. Considering the aforesaid facts and direction of the Hon'ble Jurisdictional High Court (supra), the request for admission of additional evidences is granted.

6. That upon admission of these additional evidences, the matter is remanded to the file of the Ld. CIT(Appeals)/NFAC for denovo adjudication after obtaining remand report from the concerned A.O as per Rule 46A(3) of the Income Tax Rules, 1962 regarding the same. Since these evidences have been placed for the first time on record, the Revenue has to conduct

necessary enquiry about them and provide a report to the Ld. CIT(Appeals)/NFAC. Thereafter, the Ld. CIT(Appeals)/NFAC shall proceed further in the matter. For the sake of clarity, Rule 46A of the Income Tax Rules, 1962 is extracted as follows:

“Production of additional evidence before the [Deputy Commissioner (Appeals) [and Commissioner (Appeals)].

46A. (1) The appellant shall not be entitled to produce before the Commissioner (Appeals), any evidence, whether oral or documentary, other than the evidence produced by him during the course of proceedings before the Assessing Officer, except in the following circumstances, namely:-

- (a) where the Assessing Officer has refused to admit evidence which ought to have been admitted ; or
- (b) where the appellant was prevented by sufficient cause from producing the evidence which he was called upon to produce by the Assessing Officer ; or
- (c) where the appellant was prevented by sufficient cause from producing before the Assessing Officer any evidence which is relevant to any ground of appeal ; or
- (d) where the Assessing Officer has made the order appealed against without giving sufficient opportunity to the appellant to adduce evidence relevant to any ground of appeal.

(2) No evidence shall be admitted under sub-rule (1) unless the [Joint Commissioner] (Appeals) or, as the case may be, the Commissioner (Appeals) records in writing the reasons for its admission.

(3) The [Joint Commissioner] (Appeals) or, as the case may be, the Commissioner (Appeals) shall not take into account any evidence produced under sub-rule (1) unless the Assessing Officer has been allowed a reasonable opportunity—

(a) to examine the evidence or document or to cross-examine the witness produced by the appellant, or

(b) to produce any evidence or document or any witness in rebuttal of the additional evidence produced by the appellant.

(4) Nothing contained in this rule shall affect the power of the [*Joint Commissioner*] (Appeals) or, as the case may be, the Commissioner (Appeals) to direct the production of any document, or the examination of any witness, to enable him to dispose of the appeal, or for any other substantial cause including the enhancement of the assessment or penalty (whether on his own motion or on the request of the Assessing Officer) under clause (a) of sub-section (1) of section 251 or the imposition of penalty under section 271.”

Both the Ld. CIT(Appeals)/NFAC in the course of its proceedings and the A.O in the course of remand report proceedings shall comply with the principles of natural justice.

7. As per the above terms grounds of appeal raised by the assessee stands allowed for statistical purposes.

8. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in open court on 14th day of October, 2025.

Sd/-

(PARTHA SARATHI CHAUDHURY)

न्यायिक सदस्य/JUDICIAL MEMBER

रायपुर / Raipur; दिनांक / Dated : 14th October, 2025.

SB, Sr. PS

आदेश की प्रतिलिपि अग्रहित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.

2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT-1, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, “एक-सदस्य” बेंच,
रायपुर / DR, ITAT, “SMC” Bench, Raipur.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur