

**IN THE INCOME TAX APPELLATE TRIBUNAL
PATNA BENCH, PATNA**

Before Sh. N. K. Saini, AM and Sh. Sudhanshu Srivastava, JM

ITA No.131/Pat./2013, Asstt. Year : 2005-06

Promod Kr. Agrawal, Madhepura.	Vs	ITO, Ward-2, Sahrsa.
(APPELLANT)		(RESPONDENT)
PAN No. ABWPA5231A		

Assessee by : Shri A.K. Rastogi, Shri Rakesh Kumar &
Shri A.K. Agarwal , Adv.

Revenue by : Shri Kausik Kr. Das , Sr. S.C.

Date of Hearing : 14.03.2018	Date of Pronouncement : 15 .03.2018
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ORDER

Per Sudhanshu Srivastava, JM:

This appeal has been preferred by the assessee against order dated 24.01.2013, passed by the Ld. CIT (Appeals)-1, Patna for the assessment year 2005-06.

2. The brief facts of the case are that the return showing income at Rs.1,30,020/- was filed on 27.03.2006 which was initially processed u/s 143(1) of the Act and subsequently the case was selected for scrutiny. The statutory notices u/s 142(1) and 143 (2) of the Income-tax Act, were issued and served upon the assessee. However, the assessee did not comply with the notice issued u/s 143(2) of the Act and at no stage of hearing

produced the books of accounts. Based on the replies and the documents filed by the assessee, the AO made substantial additions and completed the assessment at a total income of Rs.16,54,110/- u/s 144 of the Income-tax Act.

2.1 Aggrieved, the assessee approached the Ld. First Appellate Authority and raised as many as 14 grounds of appeal before the Ld. CIT (A). However, the Ld. CIT (A) dismissed the assessee's appeal.

2.2 Aggrieved, the assessee has approached the ITAT and has challenged the action of the Ld. CIT (A) by raising as many as 21 grounds.

3. At the outset, the Ld. AR, appearing on behalf of the assessee, submitted that the Ld. CIT (A) has passed a cryptic order in which no discussion on merits has been made at all and that after reproducing the submissions of the assessee, all the 14 grounds have been dismissed by the Ld. CIT (A) in one paragraph only and, therefore, the impugned order was liable to be set aside.

4. In response, the Ld. Sr. Standing Counsel appearing on behalf of the Department, supported the orders of the

authorities below and vehemently argued that the assessee had failed to discharge the primary onus cast upon him before both the lower authorities, the AO as well as the Ld. CIT (A) and, therefore, the additions should be upheld.

5. We have heard the rival submissions and have also perused the material on record. A perusal of the impugned order shows that the Ld. CIT (A) has noted that the assessee has not discharged the primary onus cast on him and has not produced/ submitted any evidences either before the AO or before the CIT (A), in support of the various grounds of appeal. Thereafter, the Ld. CIT (A) has proceeded to dismiss all the grounds of appeal raised by the assessee. Thus, the order passed by the Ld. CIT (A) has been passed without giving details of facts and the applicable law. We find that the impugned order is devoid of any reasoning. It is settled law that Courts, Tribunals and quasi-judicial authorities must pass a reasoned and speaking order for expeditious justice in a meaningful manner. Therefore, as the impugned order is essentially a cryptic order, we have no other option but to restore the file back to the office of the Ld. CIT (A)

with the direction to adjudicate the issue at hand *de novo* after appreciating the material on record and after providing proper opportunity to the assessee to represent his case. We also direct the assessee to present himself before the Ld. First Appellate Authority on the appointed date and furnish such information and documentary evidence/s as he may be called upon to do so failing which the Ld. CIT (A) shall be at liberty to proceed *ex-parte qua* the assessee in accordance with law.

6. In the result, the assessee's appeal stands allowed for statistical purposes.

(Order Pronounced in the Court on 15 /03/2018)

Sd/-
(N.K. Saini)
ACCOUNTANT MEMBER

Sd/-
(Sudhanshu Srivastava)
JUDICIAL MEMBER

Dated: 15th /03/2018
s.sinha*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR