

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

**BEFORE SHRI N.S SAINI, ACCOUNTANT MEMBER AND  
PAVAN KUMAR GADALE, JUDICIAL MEMBER**

**ITA No.25/Ran/2017**

Assessment Year: 2005-2006

Shri Manoj Kumar Singhal, Prop. M/s. Ramdhari Ramnath, Kalpana Kuti, J.C. Mallick Road, Hirapur, Dhanbad	Vs.	ITO, Ward II(4), Dhanbad
PAN/GIR No. AIEPS 0144 D		
<b>(Appellant)</b>	..	<b>( Respondent)</b>

Assessee by: Shri S.K.Poddar/Devesh Poddar, Adv  
Revenue by : Shri P.K.Mondal, JCIT

**Date of Hearing : 28/05/ 2018  
Date of Pronouncement : 30/05/ 2018**

**ORDER**

**Per N.S.Saini, AM**

This is an appeal filed by the assessee against the order of the CIT(A) Dhanbad dated 6.12.2016 for the assessment year 2005-2006.

2. The assessee has raised the following grounds of appeal:

" 1. For that Ld. CIT(A) was not justified in passing order ex-party since the AR engaged did not appear. The appeal was fixed for hearing on 05/12/2016 after 4 years. The Ld. AR engaged to argue and make submissions did not represent the appeal before Ld. CIT(A) for which appellant had no knowledge, as such, Ld. CIT(A) should have allowed atleast one opportunity for hearing.

2. For that Ld. CIT(A) did not consider on merit addition of Rs. 3,00,000/- made for gift received by the appellant for which sufficient

evidence was filed. The donors appeared before Ld. A.O. and gave statement, fact of gift was reflected in their IT proceedings. Both the donors were assessed to tax, as such, Ld. CIT(A) was not justified in confirming the addition of Rs. 3,00,000/- on the ground that genuines of the gift credit worthiness of the donors was not proved. CT was not justified in confirming the addition made since fact of gift stands proved by personal appearance and documents filed.

3. For that Ld. A.O. was not justified in making an addition of Rs. 20,968/- by disallowance out of carriage outwards and Rs. 2,242/- out of telephone expenses. This issue was not mentioned before Ld. CIT(A) by mistake and over sight of our AR who expired. We pray that the additions made by Ld. A.O. may kindly be considered on merit since addition was made in an arbitrary manner without any defect in maintenance of accounts.

4. For that following the decision of Hon'ble Jharkhand High Court interest if any U/s 234B shall be charged on the returned income and not on assessed income."

3. At the outset, Id A.R. of the assessee submitted that CIT(A) has passed ex-parte order and dismissed the appeal of the assessee on the ground that no one was present on assessee's behalf on various dates fixed for hearing and prayed that one more opportunity be allowed to the assessee to present its case before the CIT(A).

4. On the other hand, the learned DR submitted that before the CIT(A) the assessee did not appear despite allowing several opportunities and, therefore, learned CIT (A) was right in passing the ex parte order considering the appeal on merits.

5. After considering the rival submissions and perusing the materials available on record, we find that the CIT(A) has dismissed the appeal of the assessee exaparte as the assessee failed to appear before him Before us, Id

A.R. has requested to allow one more opportunity to present its case before the CIT(A). In view of above and in order to render substantial justice to the assesses, all materials facts are required to be brought on record to adjudicate the issue. For doing so, an opportunity has to be allowed to the assessee. We, therefore, set aside the order of Id CIT(A) and restore the matter back to the file of the Id CIT(A) to re-adjudicate the appeals afresh after allowing reasonable and proper opportunity of hearing to both the parties.

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

Order pronounced in the open court on 30 /05/2018

Sd/-

(PAVAN KUMAR GADALE)  
**JUDICIAL MEMBER**

sd/-

(N.S Saini)  
**ACCOUNTANT MEMBER**

Ranchi; Dated 30/05 /2018  
B.K.Parida, SPS

**Copy of the Order forwarded to :**

1. The Appellant Shri Manoj Kumar Singhal,  
Prop. M/s. Ramdhari Ramnath, Kalpana  
Kuti, J.C. Mallick Road, Hirapur, Dhanbad
2. The respondent: ITO, Ward II(4), Dhanbad
3. The CIT(A), Dhanbad
4. Pr. CIT, Dhanbad
5. DR, ITAT, Ranchi
6. Guard file.  
//True Copy//

BY ORDER,

SR.PS, ITAT,  
CAMP AT RANCHI