

IN THE INCOME TAX APPELLATE TRIBUNAL
PATNA BENCH
VIRTUAL HEARING AT KOLAKTA

Before Shri P. M. Jagtap, Hon'ble Vice-President(KZ)

I.T.A. No.80/Pat/2020
Assessment Year: 2011-12

Pankaj Jaiswal.....Appellant
Kachari Road, In Front of IB
Ward No.15, Khagaria-851204..
[PAN :AHYPJ1958M]

VS.

ITO, Ward-2(1), Begusarai.....Respondent

Appearances by:

Shri S. Sannigrahi, AR, appeared on behalf of the appellant.

Shri Ajay Kumar, JCIT, Sr. DR, appeared on behalf of the Respondent.

Date of concluding the hearing : September 09, 2021

Date of pronouncing the order : September 09, 2021

ORDER

This appeal filed by the assessee is directed against the order of the Commissioner of Income Tax (Appeals)-Siliguri [hereinafter referred to as the 'CIT(A)'] dated 17.03.2015 passed ex parte.

2. At the outset, it is noted that there is a delay of 93 days on the part of the assessee in filing this appeal before the Tribunal. In this regard, the assessee has moved an application seeking condonation of the said delay and keeping in view the reasons given therein, I am satisfied that there was sufficient cause for the delay of 93 days on the part of the assessee in filing the appeal before the Tribunal. Even the Id. DR has not raised any objection in this regard. Accordingly, the delay is condoned.

3. The assessee in this present case is an individual who filed his return of income for the year under consideration on 29.08.2011 declaring a total income of Rs.1,94,130/-. As per the information available with the A.O, the assessee has maintained two bank accounts with ICICI Bank, one with Khagaria Branch and the other with Siliguri Branch since both these bank accounts were not reflected in the

Income Tax return regularly filed by the assessee, the assessee was called upon by the A.O during the course of assessment proceedings to explain the deposits (excluding interest of Rs.64,190/-) found to be made in the said bank accounts aggregating to Rs.45,84,000/-. The assessee however failed to offer any explanation in respect of the said deposits made in his bank account in cash, despite sufficient opportunity afforded during the course of assessment proceedings. The peak credit of the said bank accounts worked out at Rs.39,50,907/- therefore was added by the A.O to the total income of the assessee. He also made further addition of Rs.64,190/- on account of interest credited in the said bank accounts and determined the total income of the assessee at Rs.42,09,230/- in the assessment completed u/s 143(3) vide an order dated 28.03.2014.

4. Against the order passed by the A.O u/s 143(3) of the Act, an appeal was preferred by the assessee before the Id. CIT(A) and since there was no compliance on the part of the assessee to the notices issued by him fixing the appeal for hearing from time to time, the Id. CIT(A) not only dismissed the appeal of the assessee by his appellate order dated 17.03.2015 passing ex parte but also enhanced an addition of Rs.39,50,907/- made by the A.O on account of peak credit of the undisclosed bank accounts of the assessee but also enhanced the said addition of Rs.46,40,000/- being total deposits found to be made in the said bank accounts. Against the said order of the Id. CIT(A), the assessee has preferred this appeal before the Tribunal.

5. I have considered the rival submissions and also perused the relevant material available on record. Although the Id. Counsel for the assessee has made an attempt to explain the non-compliance on the part of the assessee before the authorities below especially before the Id. CIT(A) during the appellate proceedings, he has not been able to substantiate his explanation by producing any cogent evidence which is reliable. At the same time, it is observed that the income of the assessee as assessed by A.O was enhanced by the Id. CIT(A) vide his impugned order passed ex parte without giving a reasonable opportunity to the assessee of showing cause against such enhancement as required by Sub-Section 2 of Section 251. Keeping in view all these facts of the case, I

consider it fair and proper and in the interest of justice to set aside the matter to the Id. CIT(A) subject to a cost of Rs.5,000/- to be paid by the assessee for his non-compliance before the Id. CIT(A). Subject to the payment of the cost by the assessee to the Income Tax Department, the case is remitted back to the Id. CIT(A) for disposing of the appeal of the assessee afresh in accordance with law after giving the assessee proper and sufficient opportunity of being heard.

6. In the result, this appeal of the assessee is treated as allowed for statistical purposes.

Kolkata, the 9th September, 2021.

Sd/-
[P. M Jagtap]
Vice-President

Dated : 09.09.2021
RS

Copy of the order forwarded to:

- 1. Pankaj Jaiswal*
- 2. ITO, Ward-2(1), Begusarai*
- 3. CIT(A)-*
- 4. CIT- ,*
- 5. CIT(DR),*

True copy

By order

Sr. Private Secretary/DDO