

**IN THE INCOME TAX APPELLATE TRIBUNAL  
GAUHATI BENCH, VIRTUAL HEARING AT KOLKATA**

Before Shri Sanjay Garg, Judicial Member and  
Shri Shri Manish Borad, Accountant Member

आयकर अपील सं.य/ ITA No. 124/Gau/2019 Assessment Year:2012-13
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Chandra Mohan Jha, Swatik Niwas, Barik, Shillong-793003	<u>बनाम</u> V/s.	ACIT, Shillong Meghalaya-793003
PAN: ADWPJ 8837F		
अपीलार्थी /Appellant	..	प्रत्यर्थी /Respondent

अपीलार्थी की ओर से/By Appellant/Assessee	Shri Jaspal Singh Sethi, Advocate,Ld.AR
प्रत्यर्थी की ओर से/By Respondent/Department	Shri N.T. Sherpa, JCIT,Ld.DR
सुनवाई की तारीख/Date of Hearing	25-05-2022
घोषणा की तारीख/Date of Pronouncement	26-05-2022

**आदेश /O R D E R**

PER MANISH BORAD, AM.

This appeal of the assessee for the assessment year 2012-13 is directed against the order of Id. Commissioner of Income-tax (Appeals), Shillong dated 31-01-2019, which is arising out of the assessment order framed u/s. 143(3) of the Income Tax Act dated 31-03-2015 passed by Deputy Commissioner of Income Tax, Circle-Shillong.

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

*1.1 That the learned Commissioner of Income Tax (Appeals) has erred in completing the appellate proceedings without providing adequate opportunity to the appellant.*

*1.2 That the learned Commissioner of Income Tax (Appeals) has erred in completing the appellate proceedings without waiting for the remand report from the Assessing Officer when an application under Rule VA of the IT Rules duly filed and accepted and proceedings of remand report before the Assessing Officer was pending.*

*1.3 That the learned Commissioner of Income Tax (Appeals) has erred in passing the order when the matter was adjourned sine-die*

*2.1 That the Commissioner of Income Tax (Appeals) has erred in confirming the addition of Rs. 30,43,203/- from dealing in agricultural commodities without going into the facts and circumstances of the case and the additional evidence submitted by the appellant.*

*2.2 That the Commissioner of Income Tax (Appeals) has totally ignored the fact the very nature of income has been accepted in the previous and subsequent years of returns.*

*3. That the learned Commissioner of Income Tax (Appeals) has erred in confirming the addition of Rs.60,71,000/- without going into the facts and circumstances of the case and without appreciating that the source of income and the source of cash deposits in the bank are absolutely the same.*

*4. That the assessment order as passed is not sustainable on the facts and circumstances of the case.*

3. At the outset, Ld. Counsel for the assessee has submitted that the issues raised in the instant appeal deserves to be restored to the file of the Ld. CIT(A) as the Ld. CIT(A) has decided the appeal of assessee without waiting for remand report from the Ld. AO.

4. The Ld. Departmental Representative was fair enough in not opposing the request for restoring the issue(s) to the file of the Id. CIT(A).

5. We have heard the rival contentions and perused the records placed before us. The undisputed fact remains is that the assessee has claimed to have filed certain additional evidences before the Id. CIT(A) under Rule 46A of the I.T Rules, 1962. These additional evidences claimed to go to the root of the matter and have direct bearing on the facts of the case. We also find that an application dt. 21-06-2018 was filed by the assesse placed at page-16 of the P.B showing that certain additional evidence in form of various documents including bank account were submitted by the assessee. However, on going through the said application dt. 21-06-2018, we find that the same has been addressed to the Assistant Commissioner of Income-tax, Shillong. We also find that in the impugned order there is no such reference of additional evidence(s), which have been admitted by the Id. CIT(A) and the same being forwarded to the Id. AO for getting the remand report.

6. However, in the interest of justice and being fair to both the parties, we provide one more opportunity to the assessee to file the said additional evidences as filed along with application dt.21-06-2018

to the Id. CIT(A), who shall, thereafter, call for the remand report from the Ld.AO and decide the issue(s) raised before us afresh as per law after giving proper and reasonable opportunity of being heard to the assessee. Therefore, all the issues raised by the assessee in the instant appeal are restored to the file of the Id. CIT(A) for fresh adjudication.

7. In the result, the appeal of the assessee is allowed for statistical purpose in above mentioned terms

The order pronounced in the open Court on 26.05.2022

Sd/-  
(SANJAY GARG)  
JUDICIAL MEMBER

Sd/-  
(MANISH BORAD)  
ACCOUNTANT MEMBER

Dated :26<sup>th</sup> May, 2022

\*\*PP/SPS

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

- 1.अपीलार्थी/Appellant/Assessee: Shri Chandra Mohan Jha, Swatik Niwas, Barik, Shillong-793003
2. प्रत्यर्थी/Respondent/Department: ACIT, Shillong Meghalaya-793003
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण कोलकाता / DR, ITAT, Guwahati
6. गार्ड फाइल / Guard file.

By order/आदेश से,

/True Copy/

Assistant Registrar  
ITAT, Kolkata