

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
KOLKATA-PATNA 'e-COURT', KOLKATA  
[Virtual Court Hearing]**

**Before Shri Rajpal Yadav, Vice-President (KZ)  
&  
Dr. Manish Borad, Accountant Member**

**I.T.A. No. 227/PAT/2022  
Assessment Year: 2017-2018**

***Shiva Enterprises,..... Appellant  
Flat No. B103, Kumar Ranjan Enclave,  
Kankarbagh Main Road,  
Patna-800020  
[PAN:ACPFS3087E]***

**-Vs.-**

***Deputy/Assistant Commissioner,.....Respondent  
Circle-6, Patna,  
3, Rd. Floor, Lok Nayak Jai Prakash Bhawan,  
New Dakbanglow Road,  
Patna-800001***

**Appearances by:**

*Shri Manish Rastogi, Advocate, appeared on behalf of the  
assessee*

*Shri Rupesh Agrawal, Sr. D.R., appeared on behalf of the  
Revenue*

Date of concluding the hearing : June 01, 2023

Date of pronouncing the order : June 05, 2023

**O R D E R**

**Per Rajpal Yadav, Vice-President (KZ):-**

The assessee is in appeal before the Tribunal against the order of ld. Commissioner of Income Tax

(Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 21.06.2022 passed for Assessment Year 2017-18.

2. The assessee has filed its return of income on 29.11.2017 declaring total income of Rs.46,20,672/-. The case of the assessee was selected for scrutiny assessment. The ld. Assessing Officer found that the assessee has made deposit of Rs.1,21,21,760/- in cash in two Bank accounts maintained of HDFC and ICICI Bank. According to him, the assessee failed to give any plausible explanation. Hence, he made the addition and determined the taxable income of the assessee.

3. Dissatisfied with this addition, the assessee carried the matter in appeal before the ld. CIT(Appeals). The ld. CIT(Appeals) did not adjudicate the issue on merit, rather he reproduced the assessment order and thereafter observed that the assessee has not filed any reply on its part till date. Hence, he dismissed the appeal and confirmed the addition.

4. With the assistance of ld. Representatives, we have gone through the record carefully. It has been brought to the notice by the assessee that it is trading of Hero Motorcycle on dealership basis. It has submitted all details regarding purchases and sales of motorcycles and out of the sale proceeds, amount deposited in the Bank

but both the authorities have not gone through all these details. Sub-section (6) of section 250 contemplates that ld. CIT would formulate the point in dispute and thereafter record reasons in support of her conclusion on those points, but here the ld. 1<sup>st</sup> Appellate Authority did not adhere to the mandatory procedure provided in the Income Tax Act. Similar is the position of the ld. Assessing Officer. He has not analysed any details. Considering the above facts, we deem it appropriate to set aside both the orders and restore these issues to the file of ld. Assessing Officer for fresh adjudication. It is needless to say that ld. Assessing Officer shall provide due opportunity of hearing to the assessee and the assessee will be at liberty to submit any details in support of its explanation.

**5. In view of the above, the appeal of the assessee is allowed for statistical purposes.**

Order pronounced in the open Court on 05.06.2023.

**Sd/-**  
**(Manish Borad)**  
**Accountant Member**

**Sd/-**  
**(Rajpal Yadav)**  
**Vice-President**

***Kolkata, the 5<sup>th</sup> day of June, 2023***

*Copies to :(1) Shiva Enterprises,  
Flat No. B103, Kumar Ranjan Enclave,  
Kankarbagh Main Road,  
Patna-800020, Bihar*

(2) *Deputy/Assistant Commissioner,  
Circle-6, Patna,  
3, Rd. Floor, Lok Nayak Jai Prakash Bhawan,  
New Dakbanglow Road, Patna-800001*

(3) *Commissioner of Income Tax (Appeals),  
National Faceless Appeal Centre (NFAC), Delhi;*

(4) *Commissioner of Income Tax- ,*  
(5) *The Departmental Representative*  
(6) *Guard File*  
*TRUE COPY*

*By order*

*Assistant Registrar,  
Income Tax Appellate Tribunal,  
Kolkata Benches, Kolkata*

***Laha/Sr. P.S.***