

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

**Before Shri Rajpal Yadav, Vice-President (KZ)
&
Shri Rajesh Kumar, Accountant Member**

**I.T.A. No. 155/PAT/2023
Assessment Year: 2017-2018**

***Jawahar Keshari,.....Appellant
Anishabad, Chitkohra Bazar,
Patna-800002, Bihar
[PAN:BFBPK8318C]***

-Vs.-

***Assessment Unit,.....Respondent
Income Tax Department***

Appearances by:

*Shri Ajit Kumar Pathak, A.R., appeared on behalf of the
assessee*

*Smt. Rinku Singh, CIT, D.R., appeared on behalf of the
Revenue*

Date of concluding the hearing : August 24, 2023

Date of pronouncing the order : August 28, 2023

O R D E R

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

The assessee has challenged the assessment order dated 25.03.2023 passed in A.Y. 2017-18 in an appeal before the Tribunal. It is pertinent to note that the assessee has filed his return of income for A.Y. 2017-18 declaring total income of Rs.3,67,690/-. His case was

selected for limited scrutiny assessment and an assessment order was passed on 09.05.2019 under section 143(3).

2. It emerges out from the record that ld. Commissioner took cognizance under section 263 of the Income Tax Act on the ground that assessment order passed by the ld. Assessing Officer is erroneous as well as prejudicial to the interest of revenue. Accordingly ld. CIT set aside the assessment order vide his order dated 26.02.2022 passed under section 263 of the Income tax Act. The ld. CIT has directed the ld. Assessing Officer to pass a *denovo* assessment order after carrying out the inquiries. In pursuance to the direction of the ld. CIT, the ld. Assessing Officer has passed a fresh assessment order dated 25.03.2023.

3. On due consideration of the above facts and circumstances, we are of the view that the present appeal is not maintainable before the Tribunal. The assessee ought to have challenged this assessment order before the ld. CIT(A). During the course of hearing, ld. Counsel for the assessee has informed that since it is an assessment passed on the direction of the ld. CIT issued under section 263, therefore, he has challenged it. The order of the ld. CIT passed under section 263 on 26.02.2022 is challengeable in an appeal before the

Tribunal independently and the assessee has not filed any appeal against such order. The assessee is at liberty to file any such appeal, if so advised and in case, any appeal is being filed that will be dealt with in accordance with law but presently this appeal is not maintainable, accordingly dismissed. It is further made clear that the assessee is at liberty to seek his remedy in appropriate form.

4. In the result, the appeal of the assessee is dismissed.

Order pronounced in the open Court on 28.08.2023.

Sd/- (Rajesh Kumar) Accountant Member Kolkata, the 28th day of August, 2023	Sd/- (Rajpal Yadav) Vice-President
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*Copies to :(1) Jawahar Keshari,
Anishabad, Chitkohra Bazar,
Patna-800002, Bihar*

- (2) Assessment Unit,
Income Tax Department, Patna*
- (3) Commissioner of Income Tax- ,*
- (4) The Departmental Representative*
- (5) Guard File*

TRUE COPY

By order

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

Laha/Sr. P.S.