

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

राजपाल यादव, उपाध्यक्ष

एवं

डॉ. मनीष बोरड, लेखा सदस्य

के समक्ष

Before

Shri Rajpal Yadav, Vice President

&

Dr. Manish Borad, Accountant Member

I.T.A. No.371/Pat/2022

Assessment Year: 2017-18

Bhim Thakur

.....

Appellant

(PAN: AFJPT0751M)

Vs.

DC/AC, Circle-3, Purnea

..... ***Respondent***

Appearances by:

Shri K. M. Mishra, Advocate appeared for Appellant

Shri Ashwani Kr. Singal, JCIT appeared for Respondent

Date of hearing : 20.06.2024

Date of pronouncing the order : 22.07.2024

ORDER

Per Manish Borad, Accountant Member:

This appeal filed by the assessee pertaining to the Assessment Year (in short "AY") 2017-18 is directed against the order passed u/s 250 of the Income Tax Act, 1961 in short the "Act") by Id. Commissioner of Income-tax (Appeal), National Faceless Appeal Centre (NFAC), Delhi [in short Ld. "CIT(A)"] dated

30.06.2022 arising out of the assessment order framed u/s 143(3) of the Act by DC/AC, circle-6, Purnea dated 28.11.2019.

2. The grievance of the assessee is that no proper opportunity was granted by the Ld. CIT(A) before passing the ex parte order. Through the grounds assessee has prayed that one more opportunity is granted and the issues be restored to the file of the Ld. CIT(A) for fresh adjudication. The Ld. Counsel for the assessee has also filed paper book containing following documents :

- “i) Written submission,
- ii) Humble time petition filed on 02-05-22 through Income Tax Portal,
- iii) Acknowledgement for successfully submission of time petition filed on 02/05/22,
- iv) Death certificate of Son of the appellant,
- v) Humble adjournment request made on 21/05/22 through Income Tax Department Portal vide Acknowledgement dt 21/05/22.
- vi) Humble time petition filed on 29-06-22 through Income Tax Portal vide ID Transaction No. FOSOO1155137220 dt 29/06/22.”

3. Ld. DR on the other hand, opposed the request of the assessee.

4. We have heard the rival contentions and perused the records placed before us. We notice that the assessee an individual filed return of income for AY 2017-18 on 25.12.2017 declaring income of Rs.12,01,290/-. After the case being selected for scrutiny, assessment was completed on 28.11.2018 making few additions and disallowances assessing income at

Rs.17,34,160/-. Aggrieved, assessee preferred appeal before the Ld. CIT(A). There was a delay of eleven days in filing the appeal before the Ld. CIT(A). The Ld. CIT(A) condoned the delay and admit the appeal for adjudication. But thereafter during the period 27.01.2021 to 29.06.2022 three opportunities were given but there was no compliance. The Ld. Counsel for the assessee has submitted that date of hearing were granted during the period when whole country was passing through Covid pandemic and during this period the assessee even lost his son named Suraj Kumar Suman on 15.03.2022. This was one of the main reasons due to which assessee failed to appear.

5. We, therefore, considering the circumstances faced by the assessee and the Covid restrictions which prevented him to appear before the Ld. CIT(A) and in the interest of justice and fair play set aside the order of the Ld. CIT(A) and restore the matter to his file for fresh adjudication after affording reasonable opportunity of being heard to the assessee. The assessee is also given liberty to file necessary documents in support of his contention before the Ld. CIT(A), who after considering the same will pass a speaking order. Assessee is also directed not to take any unnecessary adjournment without the just cause.

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

Order is pronounced in the open court on 22nd July, 2024.

Sd/-
(Rajpal Yadav)
Vice President

Sd/-
(Manish Borad)
Accountant Member

Dated: 22nd July, 2024

J.D. Sr. PS.

Copy of the order forwarded to:

- 1. Appellant – Shri Bhim Thakur, Bishanpur Deorhi, Dhamdaha, District (Purnea), Bihar-854 203.**
- 2. Respondent – DC/AC, Circle-3, Purnea**
- 3. CIT(A), NFAC, Delhi**
4. CIT,
5. Departmental Representative
6. Guard File.

True copy

By order
Assistant Registrar
ITAT, Kolkata Benches, Kolkata