

**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.372/Pat/2022**

**Assessment Year: 2017-18**

***Vinod Krishna Kanoria***

.....

***Appellant***

***(Through L/H Saday Krishna Kanoria)***

***(PAN: AEOPK9350B)***

***Vs.***

***ACIT, Circle-6, Patna***

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

**Appearances by:**

*Shri Manoj Kataruka, Advocate appeared for Appellant*

*Shri Ashwani Kr. Singhal, JCIT appeared for Respondent*

Date of hearing : 20.06.2024

Date of pronouncing the order : 10.07.2024

**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 Id. "CIT(A)"] dated 14.07.2022 arising out of the assessment order framed u/s 143(3) of the Act by DC/AC, circle-6, Patna dated 15.12.2019.

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

*“1. For that on the facts and circumstances of the case the learned Commissioner of Income-tax (Appeal) has erred in passing an ex parte appellate Order u/s 250 of the I T Act, 1961 on 14.07.2022 in the name of Vi nod Krishna Kanoria since Vinod Krishna Kanoria had died on 20.07.2020.*

*2. For that on the facts and circumstances of the case the learned CIT(A) has failed to consider an application filed by the Legal Heir Saday Krishna Kanoria for adjourning the hearing of the appeal on 27.06.2022 ( vide Acknowledgement No.708525261270622 dated 27.06.2022 ) in response to Notice No. DIN: ITBA/NFAC/F/APL\_1/2022-23/1043560954{1} dated 24.06.2022.*

*3. For that on the facts and circumstances of the case the learned CIT(A) was aware of the fact that Vinod Krishna Kanoria has died on 20.07.2020 even then without serving a Notice to the legal heir has passed the appellate order u/s 250 of the I T Act, 1961 on 14.07.2022 hence the appellate Order is bad in law and liable to be set aside.*

*4. For that the learned CIT(A) and also the Assessing Officer have failed to appreciate that late Vinod Krishna Kanoria was being assessed to income-tax since last several decades and has been maintaining books of account wherein his financial transactions were being duly recorded.*

*5. For that the learned CIT(A) and also the Assessing Officer have further failed to appreciate that late Vinod Krishna Kanoria was submitting extracted balance sheet relating to his business income not the Balance Sheet as per his books of accounts.*

*6. For that the learned CIT(A) and also the Assessing Officer have further also failed to appreciate that late Vinod Krishna Kanoria thought prudent to submit the Balance Sheet as per his books of account in the assessment year 2017-2018.*

*7. For that that the learned CIT(A) and also the Assessing Officer have failed to appreciate that the assets shown in the Balance Sheet as submitted relating to assessment year 2017-2018 incorporated the assets which were not acquired during the financial year 2016-2017 but they were being carried forward from past several years- hence the alleged addition amounting to Rs. 1,57,43,949 said to be excess assets compared to previous assessment year is unwarranted, unjustified and illegal.*

*8. For that the appellant craves leave to add, alter, modify, vary, delete any ground of appeal before or at the time of hearing, if necessary.”*

3. Brief facts of the case are that the assessee is an individual. Income of Rs.79,32,790/- declared in the return for AY 2017-18 filed on 26.07.2017. For the reason '*large increase in capital in a year*' case selected for limited scrutiny through CASS followed by validly serving notices u/s. 143(3) and 142(1) of the Act. During the course of assessment proceedings, ld. AO noticed that in the return of income filed for AY 2016-17 the capital balance was shown at Rs.43,64,938/- but the same has increased to Rs.1,57,88,939/- in AY 2017-18. Similar was the case for balances of loans and advances and investment in shares and stock where there was increase in the balances from the preceding year balances shown in the ITR. It was submitted by the assessee that during the AY 2016-17, the Authorised Representative who furnished the return on behalf of the assessee only included the assets which derived income and the balancing figure was shown as capital of assessee. However, there were other assets in the individual name including unsecured loans, loans and advances, other moveable and immoveable properties which were finally included in the Balance sheet filled in the ITR for AY 2017-18. It was submitted that there is actually no increase in the capital as alleged by the AO and the difference is only on account of not disclosing total personal assets in the preceding year's Balance Sheet . But, Ld. AO was not satisfied with the reply of the assessee and considering the increase in capital he treated it as unexplained u/s. 69B of the Act and made an addition of Rs.1,57,43,949/-.

4. Dissatisfied with the contentions made by the Ld. AO assessee approached Ld. CIT(A). Furnished complete details in the statement of fact filed in Form No. 35 but then sought adjournment on two occasions. Thereafter, Ld. CIT(A) without giving any further

opportunity concluded the appellate proceeding confirming the action of the AO. Aggrieved, assessee is now in appeal before this Tribunal.

5. Ld. Counsel for the assessee filed a paper book containing 24 pages providing copies of Balance Sheet and P&L Account for AYs 2015-16 to 2017-18 duly certified by her Chartered Accountant and also filed copies of income tax return. Compilation of the assets and liabilities for three years i.e. AYs. 2015-16 to 2017-18 have also been filed which provide complete details of the assets held in the name of the assessee. It is submitted that just for the reason that complete details of assets and liabilities were not submitted in the ITR for AY 2016-17 has given rise to the impugned addition but actually all these assets and liabilities are owned by the assessee for last many years and there is no alleged increase in capital during the year.

6. On the other hand, Ld. DR vehemently argued supporting the order of the lower authorities.

7. We have heard the rival contentions and perused the records placed before us. Assessee has challenged the finding of the Ld. CIT(A) confirming the addition made by the AO on account of alleged increase in capital during year by Rs.1,57,43,949/-. We note that the assessee derives income mainly from rent, interest, generator rent, profit on sale of shares. There is no separate business concern owned by the assessee.

8. Filing and forms of income tax return has witnessed a sea saw change in past ten years. Prior to the era of e-filing of return, assessee used to enclose the statement of total income, financial statements of self and other proprietorship concerns, copy of challans etc. In other words, even though there were columns in the income tax return but it was the usual practice to enclose all these details in a separate

sheet with the return. But then the system of e-filing of return came into and that too kept on adding new types of forms, the particulars to be filled in that too on the basis of nature of income earned by the assessee. If an assessee has only source of income from salary then upto a certain limit of income they are not required to furnish any particular of the Balance Sheet. In case of assesseees who are running a business concern under sole proprietorship then P&L Account and Balance Sheet of sole proprietorship concern are filled in. In the instant case, the assessee has been filing income tax return for past many years. In the income tax return for AY 2015-16 on 24.08.2015 and assessee filed the details of P&L Account only but no other items of Balance Sheet were filed. For AY 2016-17 ITR was filed on 30.07.2016 but while filling the details about Balance Sheet and P&L Account only the assets which derived income were mentioned. For instance, the assessee earned generator rental income of Rs.3,26,898/- so it mentioned the generator value of Rs.26,960/- in the assets. Similarly, some details about loans and advances and bank balances were furnished and the total of the asset side at Rs.43,64,938/- has been shown as a capital balance. But the total statement of affairs of the assessee included many other assets and liabilities. As per the Balance Sheet as at 31.03.2016 certified by a Chartered Accountant, the capital balance of assessee is Rs.1,73,15,725.52 and current liability of Rs. 45,000/- and against the total capital and liability there are fixed assets including leasehold property, investment in shares, current assets, loans and advances, TDS and cash payment. In the past return only included assets in Balance Sheet which were having some connection with the P&L Account. This is for sure a sheer negligence on the part of person filing e-return on behalf of the assessee and because of his negligence

and inadvertent mistake, complete details of assets and liabilities were not filed in the return for AY 2016-17.

9. However, for AY 2017-18 i.e. for the year under appeal the mistake committed for AY 2016-17 was not repeated and the total assets and liabilities in the name of the assessee were filled in the income tax return. As a result, the capital balance which was shown in the ITR for AY 2016-17 at Rs.43,64,938/- the figure as 31.03.2017 (including the income for the year) arrived at Rs.2,01,04,142/-. In the figure of capital as on 31.03.2017 the opening balance of capital taken from the Balance Sheet prepared for preceding year the same was taken at Rs.1,73,15,725.52. Similarly, total figure of loans and advances, investments in shares were depicted in the ITR for AY 2017-18. But only because complete details were not furnished in ITR for AY 2016-17 the alleged difference of figures of capital came to the notice of the Revenue authorities.

10. We have perused the Balance sheet for FY 2014-15, 2015-16 and 2016-17 and gone through the details furnished therein. We find merit in the contention of the Ld. Counsel for the assessee and find that there is no fresh addition to the capital during the year and the closing capital as on 31.03.2016 at Rs.1,73,15,725.52 has been correctly computed and has been carried forward in the subsequent year i.e. AY 2017-18 and the addition to the opening capital balance on 01.04.2016 is only the income earned during the year which has been duly reflected in the I. T. return. We are, therefore, satisfied with the financials in individual name of the assessee and also find that the alleged addition was only on account of not filing the complete particulars of Balance Sheet and P&L Account in the ITR for AY 2016-17. We accordingly, set aside the finding of the Ld. CIT(A) and delete

the impugned addition of Rs.1,57,43,949/- and allow the grounds of appeal raised by the assessee.

9. In the result, appeal of the assessee is allowed.

Order is pronounced in the open court on 10<sup>th</sup> July, 2024.

Sd/-

(Rajpal Yadav)  
Vice President

Sd/-

(Manish Borad)  
Accountant Member

Dated: 10th July, 2024

*J.D. Sr. PS.*

*Copy of the order forwarded to:*

- 1. Appellant – Shri Vinod Krishna Kanoria, Uday Bhawan, Fraser Road, Patna-800001.**
- 2. Respondent – DC/AC, Circle-6, Patna**
- 3. CIT(A), NFAC, Delhi**
4. CIT,
5. Departmental Representative
6. Guard File.

*True copy*

By order

Assistant Registrar  
ITAT, Kolkata Benches, Kolkata