

**THE INCOME TAX APPELLATE TRIBUNAL,
'A' BENCH, KOLKATA**

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

**I.T.A. No. 264/KOL/2024
Assessment Year: 2017-2018**

***Mrs. Puja Chander,.....Appellant
C/o. Priya Indane,
Junglighat, Port Blair,
Andaman & Nicobar Island,
Pin Code No. 744103
[PAN:AGPPC8421Q]***

-Vs.-

***Income Tax Officer,.....Respondent
Ward-3(4), Port Blair,
Aayakar Bhawan,
Port Blair,
Andaman & Nicobar Island-744102***

Appearances by:

*Shri S.K. Pransukha, FCA, appeared on behalf of the
assessee*

*Shri Subhendu Datta, CIT(DR), appeared on behalf of
the Revenue*

Date of concluding the hearing : June 19, 2024

Date of pronouncing the order : August 20, 2024

O R D E R

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

The present appeal is directed at the instance of assessee against the order of Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 22nd December, 2023 passed for Assessment Year 2017-18.

2. The assessee has taken six grounds of appeal, out of which Grounds No. 1 & 6 are general grounds of appeal, which do not call for recording of any specific finding.

3. In rest of the grounds, her brief grievance is that Id. CIT(Appeals) has erred in confirming the addition of Rs.9,29,91,881/- in an *ex-parte* order. The addition was made by the Id. Assessing Officer under section 69A of the Income Tax Act.

4. Brief facts of the case are that the assessee has filed her return of income on 07.11.2017 declaring total income of Rs.6,46,450/-. The case of the assessee was selected for scrutiny assessment and a notice under section 143(2) was issued and served upon the assessee. The Id. Assessing Officer thereafter issued questionnaire under section 142(1). According to the assessee, she is a supplier of LPG Gas of Indian Oil Brand. In other words, she is a distributor of LPG on behalf of Indian Oil. She was suffering from Transient Ischaemic attack. She has authorized Shri Sukdev Mallick to prosecute her income tax litigation. She has given her Vakalatnama in his favour. Her return was also filed by

him and audit was done by Shri S.C. Dutta, Partner of M/s. S.D. & Company, Chartered Accountants. Her Tax Consultant appeared before the ld. Assessing Officer in response to the first date of notice and thereafter did not appear. The ld. Assessing Officer has passed an *ex-parte* assessment order under section 144 of the Income Tax Act. This section authorizes the ld. Assessing Officer to pass a best judgment assessment. The ld. Assessing Officer found that there were four Bank accounts, two Allahabad Bank, Port Blair Branch and two SBI Bank, Dollygunj Branch and Port Blair Branch. The assessee has deposited a total sum of Rs.9,29,91,881/-. The ld. Assessing Officer has made the addition of this amount while determining the taxable income of the assessee according to his best judgment.

5. Appeal to the ld. CIT(Appeals) did not bring any relief. The ld. 1st Appellate Authority has not issued any physical notice, rather issued notice on e-portal and thereafter dismissed the appeal for want of prosecution.

6. Before us, ld. Counsel for the assessee has filed a paper book containing 170 pages. He prayed that this paper book be taken up on record as additional evidence. In the paper book, he has placed on record the ledger account with Indian Oil, agreement with Indian Oil and other details. He prayed that issues be set aside to the file of ld. Assessing Officer for re-adjudication.

7. On the other hand, ld. D.R. submitted that the assessee was not vigilant in prosecuting the income tax proceedings, therefore, she should not be given another opportunity.

8. We have duly considered the rival contentions and gone through the record carefully. Sub-section 6 of section 250 contemplates that ld. CIT(Appeals) would determine the points in dispute and thereafter record reasons on such points. The ld. CIT(Appeals) failed to adhere this mandatory provision in the impugned order while dismissing the appeal of the assessee for want of prosecution.

9. It is pertinent to observe that apart from the finding of ld. CIT(Appeals), even ld. Assessing Officer has failed to determine the true income according to his best judgment. The ld. Assessing Officer should have looked into her past returns, should have find out where the total deposits made in four Bank accounts went. Had he visualized the accounts carefully, he would easily realize that amounts were transferred to Indian Oil Corporation. He could have worked out how such a large sum of cash is being deposited and then travelled to the accounts of Indian Oil, but he has not made any analytical exercise, which was expected from him while passing a best judgment assessment. The law does not authorize him to punish an assessee in the garb of passing an ex-parte order. Taking into consideration the facts and circumstances, we are of the view that ends of justice would meet if we set aside the issues to the file of ld. Assessing Officer for fresh adjudication. The ld.

Assessing Officer is directed to provide due opportunity of hearing to the assessee while re-determining her taxable income.

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

Order pronounced in the open Court on 20/08/2024.

Sd/-

(Manish Borad)
Accountant Member

Sd/-

(Rajpal Yadav)
Vice-President (KZ)

Kolkata, the 20th day of August, 2024

*Copies to :(1) Mrs. Puja Chander,
C/o. Priya Indane,
Junglighat, Port Blair,
Andaman & Nicobar Island,
Pin Code No. 744103*

*(2) Income Tax Officer,
Ward-3(4), Port Blair,
Aayakar Bhawan, Port Blair,
Andaman & Nicobar Island-744102*

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

(4) CIT - , Kolkata;

(5) The Departmental Representative;

(6) Guard File

TRUE COPY

By order

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

Laha/Sr. P.S.