

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

Before

Dr. Manish Borad, Accountant Member

&

Shri Pradip Kumar Choubey, Judicial Member

I.T.A. No.08/Pat/2022

Assessment Year: 2007-08

Pushpa Kumari ***Appellant***
Pawapuri Bihar, N.H. 28,
Bhagwanpur, Muzaffarpur,
Bihar-842001.
(PAN: ABGPK2480B)

Vs.

DCIT, Circle-2, Muzaffarpur ***Respondent***

Appearances by:

No one appeared for Appellant

Shri Ashwani Kr. Singal, JCIT appeared for Respondent

Date of hearing : 23.07.2024

Date of pronouncing the order : 12.09.2024

ORDER

Per Manish Borad, Accountant Member:

This appeal filed by the assessee pertaining to the Assessment Year (in short "AY") 2007-08 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 27.09.2021 arising out of the assessment order framed u/s 143(3) of the Act by DCIT, Circle-2, Muzaffarpur dated 17.12.2009.

2. Registry has informed that the appeal of the assessee is time barred by 84 days. Condonation of delay application dated 09.05.2022 is placed in file and on perusal of the same and considering the reasons mentioned therein, we condone the delay and admit it for adjudication. When the case was called for hearing, neither any one appeared on behalf of the assessee nor filed any adjournment application. On perusal of the records, it was noticed that the order of the Ld. CIT(A) is *ex parte* and, therefore, it was deemed fit to adjudicate the appeal with the assistance of Ld. DR.

3. Ld DR vehemently argued supporting the order of the lower authorities but failed to controvert this fact that the assessee was neither able to furnish any submission before first appellate authority and the finding of Ld. CIT(A) is purely based on the observation of the Ld. AO.

4. We have heard Ld. DR and perused the records placed before us. We notice that the assessee an individual filed return of income for AY 2007-08 on 31.03.2008 declaring income of Rs.6,85,690/-. After the case being selected for scrutiny, valid notices u/s. 143(2) and 142(1) of the Act were issued. Books of account were placed before the AO and the same were test checked. Ld. AO observed that the assessee has advanced interest free loan to M/s. Pawanpuri Fuel Station of Rs.17,32,000/-. The assessee was unable to satisfy the Ld. AO as to why the interest free loan has been given and in the P&L Account assessee has claimed bank interest expenditure. Ld. AO thus, disallowed the bank interest of Rs.1,73,077/-. Ld. AO also observed that assessee claimed depreciation @ 40% on the buses

but applicable rate is 30%. Accordingly, Rs.7,65,882/- was disallowed towards excess depreciation. Income assessed at Rs.68,24,649/-.

5. Aggrieved, assessee preferred appeal before the Ld. CIT(A) but after filing the appeal could not place any documents before the first appellate authority and in the absence of any explanation from assessee's side, ld. CIT(A) had no option but to confirm the addition made by Ld. AO. Considering the fact that assessee was unable to offer any submission or to file any documents in support of her contentions and in the interest of justice and fair play, we set aside the order of the Ld. CIT(A) and restore the matter to his file for fresh adjudication which is to be carried out after affording reasonable opportunity of being heard to the assessee. The assessee is also given liberty to file necessary documents in support of her contention before the Ld. CIT(A), who after considering the same will pass a speaking order. Assessee is also directed not to take any adjournment without the reasonable cause.

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

Order is pronounced in the open court on 12th September, 2024.

Sd/-
(Pradip Kumar Choubey)
Judicial Member

Sd/-
(Manish Borad)
Accountant Member

Dated: 12th September, 2024

J.D. Sr. PS.

Copy of the order forwarded to:

- 1. Appellant – Sm. Pushpa Kumari.**
- 2. Respondent – DCIT, Circle-2, Muzaffarpur**
- 3. CIT(A), NFAC, Delhi**
4. CIT,
5. Departmental Representative
6. Guard File.

True copy

By order
Assistant Registrar
ITAT, Kolkata Benches, Kolkata