

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

**Before  
Shri Rajpal Yadav, Vice President  
&  
Dr. Manish Borad, Accountant Member**

**I.T.A. No.375/Pat/2024  
Assessment Year: 2017-18**

***Kala Devi*** ..... ***Appellant***  
***1, M/s. Vaishali Petroleum Service***  
***Station, Lalganj, Bihar-844121.***  
***(PAN: AEMPD5154Q)***

***Vs.***

***Assistant Commissioner of Income-tax,*** ..... ***Respondent***  
***Circle-1, Patna.***

**Appearances by:**

*Shri A. K. Rastogi, Sr. Advocate & Shri Rakesh Kumar, Advocate  
appeared for Appellant.  
Shri Ashwani Kumar, Sr. DR. appeared for Respondent.*

Date of concluding the hearing : 11.09.2024  
Date of pronouncing the order : 13.09.2024

**ORDER**

**Per Dr. Manish Borad, Accountant Member:**

This appeal filed at the instance of 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 Ld. Commissioner of Income-tax, (Appeals), NFAC, Delhi [in short Ld. "CIT(A)"] dated 20.12.2023 arising out of the assessment order framed u/s. 143(1) of the Act by ACIT, Circle-1, Patna dated 29.12.2019 .

2. Registry has informed that the appeal of the assessee is time barred by 61 days and an application for condonation of delay along with supporting affidavit has been placed in file. The contents of the said affidavit are reproduced as under:

*“1. That the CIT(A), NFAC, Delhi has passed order on 20.12.2023 for AY 2017-18 in Appeal No. CIT(A), Patna-1/11171/2019-20.*

*2. That the deponent has received notice from the A.O. dated 27.02.2024 through Speed Post directing payment of the disputed tax of r.s.2.77 crores on or before 05/03/2024 and thereafter, the e-portal was browsed and the deponent has found the impugned order on the e-portal under the tab 'for your information' and not under the tab 'for your action'*

*3. That the deponent has not received any message on her registered mobile no. and/or registered email of uploading of the said order on the e-portal.*

*4. That the order of the CIT(A) dated 20112/2023 came to the knowledge of the deponent only on browsing of e-portal after receipt of notice dated 27/02/2024 for payment of disputed demand of Rs.2.77 crores.*

*5. That the time line for filing of appeal before the Hon'ble Tribunal is 60 days from the receipt of the order, which in the present case is 05/03/2024.”*

3. In view of the above contents of the affidavit, we note that the assessee was prevented from sufficient cause for being able to file the appeal within the statutory time limit and, therefore, we condone the delay in filing the appeal and admit the same for adjudication.

4. At the time of hearing Ld. Counsel for the assessee though raised as many as seventeen grounds of appeal but firstly he contended that the Ld. CIT(A) confirmed the order of the Ld. AO *ex parte* without affording reasonable opportunity of hearing to the assessee. Hence, he prayed before the bench to set aside the order of the Ld. CIT(A) and restore the matter to his file for fresh adjudication.

5. On the other hand, Ld. CIT, DR opposed this prayer of the assessee.

6. We have heard rival submissions and perused the material available before us. We notice that the Ld. CIT(A) has afforded several opportunities to the assessee i.e. on 06.01.2021, 07.11.2023, 11.07.2023, 27.07.2023, 14.08.2023, 18.10.2023, 04.11.2023 and 21.11.2023 but the assessee did not respond to the same. Ld. CIT(A) dismissed the appeal on account of non appearance without going into the merits of the case and without passing a speaking order as contemplated u/s. 250(6) of the Act. Considering the circumstances faced by the assessee which prevented him to appear before the Ld. CIT(A) and in the interest of justice and fair play, we set aside the impugned order of the Ld. CIT(A) and restore the matter to his file for fresh adjudication for which reasonable opportunity of being heard be provided to the assessee. The assessee is 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 adjournment without reasonable cause.

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

Order is pronounced in the open court on 13<sup>th</sup> September, 2024.

Sd/-  
(Rajpal Yadav)  
Vice President  
Dated : 13.09.2024

Sd/-  
(Dr. Manish Borad)  
Accountant Member

*J.D. Sr. PS.*

*Copy of the order forwarded to:*

- 1. Appellant – Sm. Kala Devi**
- 2. Respondent – ACIT, Circle-1, Patna**
3. CIT(A), NFAC, Delhi
4. Pr. CIT-
5. Departmental Representative
6. Guard File.

*True copy*

By order

Assistant Registrar  
ITAT, Kolkata Benches, Kolkata