

**IN THE INCOME TAX APPELLATE TRIBUNAL,
KOLKATA-PATNA 'e-COURT', KOLKATA
[Hybrid Court Hearing]**

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

**I.T.A. No. 321/PAT/2023
Assessment Year: 2017-2018**

***Upendra Singh,..... Appellant
Fazalganj, Sasaram,
Rohtas, Bihar, Pin-821115
[PAN:AYEPS3567Q]***

-Vs.-

***Deputy/Assistant Commissioner
of Income Tax,.....Respondent
Circle-1, Gaya***

Appearances by:

*Shri D.V. Pathy, Advocate, appeared on behalf of the
assessee*

*Shri Ashwini Kumar, Sr. D.R., appeared on behalf of the
Revenue*

Date of concluding the hearing : September 12, 2024

Date of pronouncing the order : September 25, 2024

O R D E R

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

The assessee is in appeal before the Tribunal against the order of Id. Commissioner of Income Tax (Appeals),

National Faceless Appeal Centre (NFAC), Delhi dated 19th September, 2023 passed for assessment year 2017-18.

2. At the time of hearing, the ld. Counsel for the assessee contended that appeal was decided by the ld. CIT(Appeals) *ex-parte* and no notice was issued to the assessee. The alleged notices mentioned in the impugned order were never served upon the assessee. Therefore, the assessee could not know about the status of his appeal and, therefore, could not file submission.

3. With the assistance of ld. Representatives, we have gone through the record carefully. The ld. CIT(Appeals) has dismissed the appeal for want of prosecution, which is contrary to the mandate given in section 250(6) of the Income Tax Act. Sub-section 6 of section 250 contemplates that ld. CIT(Appeals) would state the points in dispute and thereafter record reasons on those points. But in the present case, ld. CIT(Appeal) did not follow this mandatory procedure and dismissed the appeal for want of prosecution. Therefore, we set aside the impugned order and restore all these issues to the file of ld. CIT(Appeals) for adjudication on merit. The ld. CIT(Appeals) shall decide the issues after providing due opportunity of hearing to the assessee.

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

Order pronounced in the open Court on 25.09.2024.

Sd/-

Sd/-

(Manish Borad)
Accountant Member

(Rajpal Yadav)
Vice-President

Kolkata, the 25th day of September, 2024

- Copies to :* (1) *Upendra Singh,*
Fazalganj, Sasaram,
Rohtas, Bihar, PIN Code No.821115
- (2) *Deputy/Assistant Commissioner of Income Tax,*
Circle-1, Gaya
- (3) *Commissioner of Income Tax (Appeals),*
National Faceless Appeal Centre (NFAC),
Delhi;
- (4) *Commissioner of Income Tax- ;*
- (5) *The Departmental Representative*
- (6) *Guard File*

TRUE COPY

By order

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

Laha/Sr. P.S.