

**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. 314/PAT/2023
Assessment Year: 2020-2021**

***Patel Agri Industries (P) Limited,..... Appellant
Vill. Nadiaauna- Kharjamma,
P.O. Dahpar, P.S. Noorsarai,
Bihar, PIN Code No. 803114
[PAN: AAHCP1891J]***

-Vs.-

***Commissioner of Income Tax (Appeals),
Patna-3, Patna,.....Respondent
4th Floor, Lok Nayak Jai Prakash Bhawan,
New Dakbanglow Road,
Patna-800001, Bihar***

Appearances by:

N o n e, appeared on behalf of the assessee

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

Date of concluding the hearing : September 05, 2024

Date of pronouncing the order : October 18, 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), Patna-3 dated 23rd August 2023 passed for A.Y. 2020-21.

2. The Registry has pointed out that the appeal is time barred by one day. The assessee has filed an application explaining the delay in filing the appeal. After going through the application of the assessee, we deem it appropriate to condone the delay and proceed to decide the appeal on merit.

3. The grounds of appeal filed by the assessee are argumentative and descriptive in nature. They are running into roughly more than ten pages. However, the solitary grievance of the assessee is that the Id. CIT(Appeals) has erred in confirming the addition of Rs.29,96,000/-, which was added by the Id. Assessing Officer under section 68 of the Income Tax Act being unexplained cash credit.

4. Brief facts of the case are that one Shri Arindam Dutta was carrying cash amounting to Rs.29,96,000/-. He was intercepted by the Returning Officer of 224-Kharagpur Sadar Assembly Constituency on 16.11.2019. In other words, the authorities for conducting the bye-election for this Assembly seat have put a check-post with the assistance of police authorities. Shri Arindam Dutta was carrying cash of this amount, which was stated to be of the assessee-company. In order to explain the cash, it was submitted by the assessee that this cash was being taken for making payments to the farmers from whom

paddy was purchased. However, the statement of the Director was recorded by the Income Tax Authorities under section 131 on 20.12.2019, wherein the assessee has admitted that this cash belongs to the company and assessee has no explanation about the source of cash. It was further admitted that the assessee will declare the cash in its income. The reply of Question No.9 of this statement reads as under:-

"Sir, though I wish to state that the entire cash seized from my person/agent belong Agri Industries Pvt. Ltd. I may not be able to justify the exact source of such money. The money was intended to be used for the purchase of Paddy from farmers and Farm produce in India are generally sold in cash only. But at the timing of seizure of the said cash was such that By-election were happening and we were unaware of the same therefore, whatsoever explanation, I would give there would be reasonable doubts about its truthfulness. So keeping the overall circumstances in mind and in order to buy peace and to avoid protracted litigation. I am voluntarily offering the entire amount of cash so seized of Rs.29,96,000/- from our person Sri Arindam Dutta as additional income for Current FY 2019-20 of Patel Agri Industries Pvt. Ltd. I further request that after adjusting the applicable taxes thereupon the remaining amount may please be returned to us at the earliest".

5. On the basis of the above, ld. Assessing Officer has made the addition and ld. CIT(Appeals) confirmed the addition.

6. In response to the notice of hearing, no one has come present on behalf of the assessee. We have gone through the statement of facts along with the grounds of appeal

filed by the assessee, wherein the assessee has relied upon the order of ITAT in the case of DCIT -vs.-M/s. Karthik Construction Co. (ITAT, Mumbai); Madras High Court in the case of CIT -vs.- N. Swamy 1998 (9) TMI 27. He also relied upon the order of ITAT, Chandigarh Bench in the case of ITO, VII(2), Ludhiana -vs.- Dr. R.L. Narang 2008 (3) TMI 685. In brief, the stand of the assessee is that on the strength of statement given under section 131, the addition could not be made and it should have been further corroborated.

7. We have duly considered the submissions of the ld. D.R. as well as the statement of facts filed by the assessee. There is no dispute with regard to the fact that an authorized person of the assessee Shri Arindam Dutta was carrying cash amounting to Rs.29,96,000/-. This cash was recovered by a check-post of Police and Electioneering Authority. It was later on seized by the Revenue. The ld. Assessing Officer has directed the assessee to explain the source of cash. Then it was submitted by the assessee that this cash was being taken for purchasing the paddy from farmers. The utilization of the cash is not being questioned by the Department. Whether it was taken for purchasing the paddy for some other reason. This issue is not a dispute. The dispute for the purpose of income tax is what is the source of this cash. The assessee was unable to explain the source. He simply admitted this cash as is

unexplained money in the statement recorded by the Department on oath under section 131. With the help of certain judgments referred in the statement of facts, an effort is being made by the assessee that a statement recorded under section 131 is not a conclusive one and cannot be relied upon. However, we are of the view that this is not a statement under section 133A during the course of survey, rather it is a statement recorded on oath. The declaration made in the statement is further corroborated by recovery of cash. It is for the assessee to explain the source of cash instead of objecting the quality of evidence possessed by the Revenue because factum of recovery of cash is not in dispute. The assessee has miserably failed to prove the source. Hence this addition has rightly been made by the ld. Assessing Officer. Therefore, we do not find any merit in this appeal of the assessee. It is dismissed.

8. In the result, the appeal of the assessee is dismissed.

Order pronounced in the open Court on 18.10.2024.

Sd/-

Sd/-

(Manish Borad)
Accountant Member

(Rajpal Yadav)
Vice-President

Kolkata, the 18th day of October, 2024

*Copies to :(1) Patel Agri Industries (P) Limited,
Vill. Nadiaauna- Kharjamma,
P.O. Dahpar, P.S. Noorsarai,
Bihar, PIN Code No. 803114*

(2) *Commissioner of Income Tax (Appeals),
Patna-3, Patnaq,
4th Floor, Lok Nayak Jai Prakash Bhawan,
New Dakbanglow Road,
Patna-800001, Bihar*

(3) *CIT-*

(4) *The Departmental Representative;*

(5) *Guard File*

TRUE COPY

By order

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

Laha/Sr. P.S.