

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

**Shri Sonjoy Sarma, Judicial Member**  
**Shri Sanjay Awasthi, Accountant Member**

**I.T.A. No. 200/Pat/2024**  
**Assessment Year: 2017-18**

**Sumit Kumar,**  
Ratnopatti Subhank,  
Darbhanga - 846004  
[PAN: AOEPK6190B]

..... **Appellant**

**vs.**

**ITO, Ward-3(2),**  
Darbhanga - 846004

..... **Respondent**

**Appearances by:**

Assessee represented by : None

Department represented by : Ashwani Kumar, Sr. DR

Date of concluding the hearing : September 17, 2024

Date of pronouncing the order : September 18, 2024

**ORDER**

**Per Sonjoy Sarma, Judicial Member:**

This appeal filed by 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 the Ld. Commissioner of Income Tax, National Faceless Appeal Centre (NFAC), Delhi, dated 07.11.2023 arising out of Assessment Order dated 15.10.2019, passed under Section 144 of the Act.

2. The Assessee has raised the following grounds of appeal:

*"1. For that, the orders of the authorities below are bad in law and facts.*

*2. For that, the learned CIT (A) should not have passed an ex-parte order and should have resorted to the physical service of notice before passing an ex-parte order.*

*3. For that, the appellant is not very well versed in e-proceedings and does not use email regularly. In such a case, notices uploaded on the portal could not be looked into, and compliance could not be made. Considering the facts, the appellant should have been provided one more opportunity to present his case.*

*4. For that, the final accounts for the assessment year under consideration were prepared, but unfortunately, the counsel looking after the income tax affairs did not file the return. However, the due tax as per the final accounts was paid under the provision of Section 249(4)(b) before filing an appeal before CIT (A).*

*5. For that, the bank account in question is the regular bank account of the business, and the cash deposited during the demonetization period relates to the regular course of business.*

*6. For that, the amount of Rs 18,07,000/- relates to the business that was deposited in the bank account and, as such, should not have been treated as unexplained money under Section 69A of the I.T. Act.*

*7. For that, the application of Section 115BBE in the present case is patently wrong, illegal, and tax should not have been calculated at 60%.*

*8. For that, the addition is therefore liable to be deleted, and the assessment order is liable to be set aside.*

*9. For that, other grounds, if any, will be urged at the time of hearing."*

3. The appeal came up for hearing on 17.09.2024. Despite several notices issued by the Registry regarding the pendency of this case, no one appeared on behalf of the assessee to represent the matter before the Bench.

4. Considering the importance of timely adjudication and to avoid keeping this appeal pending for inordinate period without proper

representation, we find it necessary to proceed with the case and deliver a decision based on the available material.

5. The appeal has been filed by the assessee but there is a minor delay of two days in filing it within the prescribed time limit. In the interest of natural justice and fairness, we hereby condone the delay of two days and proceed to adjudicate the matter on its merits.

6. Upon perusal of the grounds of appeal, it is noticed that the primary grievance of the assessee is that the order passed by the Ld. CIT(A) and the Ld. AO are ex-parte orders and the assessee requested that the matter may be remand back to the file of the Ld. CIT(A) for fresh adjudication.

7. We after considering the submissions made on behalf of the department and examined the material available on record, we find that the assessee has been a habitual defaulter in complying with the notices issued during the assessment proceedings and before the Ld. CIT(A), despite multiple opportunities, assessee did not appear before the authority below which lead to passing the ex-parte order against the assessee.

8. Even before this Tribunal, there has been no proper representation on behalf of the assessee. However, in the interest of natural justice, we deem it appropriate to remand the matter to the file of the Ld. CIT(A) for fresh adjudication on the merits of the case.

9. The Ld. CIT(A) is directed the issue afresh notice to the assessee providing him with final opportunity to present his case. The assessee is directed to cooperate with the proceedings and ensure timely representation. In view of the above, appeal is allowed for statistical purposes and the matter is remand back to the file of Ld. CIT(A) for *de-novo*

consideration and adjudication. In terms of the above, appeal of the assessee is allowed for statistical purposes.

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

***Kolkata, the 18<sup>th</sup> September, 2024.***

***Sd/-***  
**[Sanjay Awasthi]**  
**Accountant Member**

***Sd/-***  
**[Sonjoy Sarma]**  
**Judicial Member**

Dated: 18.09.2024.  
*AK, PS*

*Copy of the order forwarded to:*

- 1 Sumit Kumar,
2. ITO, Ward-3(2), Darbhanga
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches