

आयकर अपीलीय अधिकरण न्यायपीठ, पटना ।
IN THE INCOME TAX APPELLATE TRIBUNAL
PATNA BENCH, PATNA
(Through virtual hearing at Kolkata)

BEFORE SHRI RAJESH KUMAR, ACCOUNTANT MEMBER
&
SHRI ANIKESH BANERJEE, JUDICIAL MEMBER

SA No. 12/PAT/2024
(Arising in ITA No.609/PAT/2024 for A.Y. 2011-12)

SA No. 13/PAT/2024
(Arising in ITA No.610/PAT/2024 for A.Y. 2012-13)

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| Hotel Chankya Pvt. Ltd. Hotel Samrat International, Fraser Road, Patna-800 001 Bihar [PAN : AAACH9654G] | Vs | DCIT, Circle-2, Patna DCIT, Central Circle-2, Lok Nayak, Jaiprakash Bhawan, Dak Bunglow, Chauraha, Patna-800 001 |
| आवेदक/ (Applicant) | | प्रत्यर्थी/ (Respondent) |

I.T.A. Nos. 609 & 610/PAT/2024
Assessment Years: 2011-12 & 2012-13

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| Hotel Chankya Pvt. Ltd. Hotel Samrat International, Fraser Road, Patna-800 001 Bihar | Vs | DCIT, Circle-2, Patna DCIT, Central Circle-2, Lok Nayak, Jaiprakash Bhawan, Dak Bunglow, Chauraha, Patna-800 001 |
| अपीलार्थी/ (Appellant) | | प्रत्यर्थी/ (Respondent) |

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| Assessee by: | Shri A.K. Rastogi & Shri Rakesh Kumar, ARs |
| Revenue by: | Shri Ajay Kr. Shukla, DR |

सुनवाई की तारीख/Date of Hearing : 06.11.2024
घोषणा की तारीख /Date of Pronouncement : 07.11.2024



आदेश/ORDER

PER ANIKESH BANERJEE, JUDICIAL MEMBER:

In the instant stay application was filed by the assessee against the penalty order passed u/s 271D of the Income-tax Act, 1961 (the Act) by the Addl. Commissioner of Income-tax, Range-2, Patna, vide order dated 19.7.2019 and 24.01.2022 for A.Y. 2011-12 and 2012-13, respectively. The impugned penalty order was challenged by the assessee before the Id. National Faceless Appeal Centre, Delhi [in brevity ‘the learned CIT (A)’], order passed under Section 250 of the Income-tax Act, 1961 (in brevity, ‘the Act’) for A.Ys. 2011-12 and 2012-13, date of orders for both the appeals 19.09.2024.

2. The Id. Authorised Representative (in short the AR) proceeded to argue the application for stay before the Bench. The Id. AR first argued the merit of the case and placed that the penalty was initiated u/s 271D of the Act for contravention of Section 269SS of the Act. The penalty was levied amounting to ₹20,00,500/- and 13,00,000/- for A.Y. 2011-12 and 2012-13, respectively. The Id. AR further stated that the appeal order was passed *ex-parte and* assessee was unable to comply before the Id. CIT (A) during the appeal hearing. He further stated that the assessee is prayed to restore the matter back to the file of the Id. CIT (A) for further adjudication, *de novo*.

3. The Id. DR vehemently argued and had not made any objection against the prayer of the Id. AR.



4. We have heard the rival contentions and considered the documents available on record. We find that the appeal order was passed *ex-parte* against the impugned penalty order and both parties agreed to adjudicate the matter on merit. We find that the ld. CIT(A) allowed several opportunities for hearing, but the assessee was failed to comply. The impugned order was passed without considering the submission of the assessee. We find that the reasonable opportunity was denied for the assessee. Accordingly, we direct that the matter is remanded to the file of the ld. CIT (A) for further adjudication *de novo*. We are not expressing our view on merit of the case, which will impair the set aside appeal proceedings. Needless to say the assessee should get reasonable opportunity of hearing in set aside proceedings. On the other hand, assessee should be diligent and co-operative before the ld. CIT (A) in appeal proceeding for quick disposal of the appeal.

5. In the result, the appeals of the assessee bearing **ITA Nos.609 & 610/PAT/2024** are allowed for statistical purpose.

6. On the other hand, both the stay petition bearing **SA Nos. 12 &13/Pat/2024**, are dismissed as infructuous.

Order pronounced in the Court on 7th November, 2024 at Kolkata.

Sd/-

(RAJESH KUMAR)
ACCOUNTANT MEMBER

Kolkata, Dated 07.11.2024

*SS, Sr.Ps

Sd/-

(ANIKESH BANERJEE)
JUDICIAL MEMBER



आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण , पटना /DR,ITAT, PATNA,
6. गार्ड फाईल /Guard file.

TRUE COPY

आदेशानुसार/ BY ORDER,

Sr. PS/ Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, PATNA