

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

**Before Shri Rajpal Yadav, Vice-President (KZ)  
&  
Shri Rajesh Kumar, Accountant Member**

**I.T.A. No. 468/PAT/2024  
Assessment Year: 2017-2018**

***Narendra Kumar Singh,.....Appellant  
C-404, Jagmano Shree Garden,  
Bailey Road,  
VEd Nagar, Rukanpura,  
Patna-800014, Bihar  
[PAN:APYPS5214B]***

***-Vs.-***

***Income Tax Officer,.....Respondent  
Ward-5(3), Patna***

**Appearances by:**

*Shri S.K. Tulsiyan, Advocate, appeared on behalf of the  
assessee*

*Shri Ashok Kumar, CIT(D.R.), appeared on behalf of the  
Revenue*

**Date of concluding the hearing : October 22, 2024  
Date of pronouncing the order : November 18, 2024**

**O R D E R**

**Per Rajesh Kumar, Accountant Member:-**

The present appeal is directed at the instance of assessee against the order of Id. Commissioner of Income Tax (Appeals),

National Faceless Appeal Centre (NFAC), Delhi dated 18<sup>th</sup> June, 2024 passed for Assessment Year 2017-18.

2. At the time of hearing, ld. Counsel for the assessee raised additional ground of appeal, which is extracted below:

*“That the order of assessment dated 19.12.2019 is in excess of jurisdiction vested in the ld. AO as per the F. No. 225/157/2017/ITA-II of CBDT in relation to Limited Scrutiny (Computer Aided Scrutiny Selection) which was for the Limited issue of “Large Cash Deposits in Bank account(s) during the year”, whereas all additions are on the issues other than the Limited Scrutiny Selection”.*

3. Ld. Counsel for the assessee, at the very outset, submitted that the issue raised in the additional ground of appeal is legal issue and is arising out of records available on the assessment folder and, therefore, no further verification of facts is required to be done. The ld. A.R., therefore, submitted that the issue may kindly be admitted for adjudication by placing strong reliance on the decision of the Hon'ble Apex Court in the case of National Thermal Power Co. Ltd. Vs. CIT (1998) 229 ITR 0383.

4. The ld. D.R., on the other hand, submitted that the issue has not been raised before either of the authorities below and, therefore, the same may be dismissed in *limine*.

5. We have heard the rival contentions and perused the material available on record including the additional ground raised, which is *qua* challenging the jurisdiction of the ld. Assessing Officer to make addition on the ground that the additions made by the ld. Assessing Officer were not subject matter of limited scrutiny.

During the course of assessment proceedings, the same was not converted into complete scrutiny in terms of the CBDT Circular /Instruction No.3/2017 dated 21.02.2019. Considering these facts and circumstances and the ratio laid down in on the decision of the Hon'ble Apex Court in National Thermal Power Co. Ltd. Vs. CIT (supra), we are inclined to admit the additional ground raised by the assessee before us for adjudication.

6. The facts in brief *qua* the additional ground of appeal are that the assessee filed his return of income on 29.07.2017 declaring total income of Rs.8,31,760/-. The case of the assessee was selected for limited scrutiny through CASS for verification of large cash deposits in Bank accounts during the financial year. Accordingly notice under section 143(2) of the Act was issued dated 10.08.2018 stating therein that the case has been selected for limited scrutiny for examination of cash deposited in the Bank accounts during the financial year. Accordingly, the ld. Assessing Officer called for various documents/information and explanation from the assessee during the course of assessment proceedings, which were not complied with by the assessee and finally the assessment was framed by making two additions, one of Rs.1,02,17,061/- which was on account of peak credit of unexplained deposits of two bank accounts, namely one in Canara Bank bearing A/c. No. 14254 and second in ICICI Bank bearing Account No. 19877. The second addition of Rs.34,43,814/- was made on account of under-reported income, which was noted by the ld. Assessing Officer from the Form 26AS in the assessment framed under section 144 dated 19.12.2019. In the appellate

proceeding, the issue of limited scrutiny was not raised. However, the additions were confirmed on merits.

7. After hearing the rival contentions and perusing the material available on record including the case law cited before us as well as Circular No. 3/2019 issued by the CBDT, we observe that undisputedly the case of the assessee was selected for scrutiny for examination and verification of large cash deposits during the impugned financial year. However, upon verification of facts by the ld. Assessing Officer during the course of assessment proceedings, the ld. Assessing Officer did not make any addition after verification of Bank accounts towards large cash deposits. However, he made two additions of Rs.1,02,17,061/- on peak credit of unexplained deposits which were not on account of cash deposits and second in respect of under misreporting of income of Rs.34,43,814/- as per Form 26AS. It is pertinent to state that during the course of hearing, ld. Assessing Officer noticed that the assessee has deposited Rs.1,73,10,349/- in Canara Bank account out of which cash deposit was of Rs.4,01,390/- whereas credit entries of Rs.6,26,597/- in ICICI Bank account were there out of which cash deposit was of Rs.96,565/- during the financial year. We note that the assessee did not comply with the show-cause notice issued by the ld. Assessing Officer and finally ld. Assessing Officer framed the assessment under section 144 of the Act vide order dated 19.12.2019 making two additions as stated above. Therefore, it is abundantly clear that the additions made by the ld. Assessing Officer were not in respect of the issue, which was the subject matter of the limited scrutiny as is apparent from the

notice issued under section 143(2) of the Act dated 10.08.2018 and the ld. Assessing Officer passed the assessment order by making the above said additions without converting the limited scrutiny into complete scrutiny in terms of Circular issued by CBDT bearing No. 3/2017 dated 21.02.2019. In our opinion, the said additions made by the ld. Assessing Officer are without jurisdiction and cannot be sustained. The assessee finds support from the decision of the Hon'ble Jurisdictional High Court in the case of PCIT -vs.- Weilburger Coatings (India) Pvt. Limited [2023] 155 taxmann.com 580 (Calcutta), wherein Hon'ble Court has held as under:-

*The assessee has placed Instruction issued by the CBDT dated 30-11-2017, being F. No. DGIT(Vig.)/HQ/SI/2017- 18, wherein the CBDT has noted instances where some of the Assessing Officer were travelling beyond the issues while making assessment in limited scrutiny cases by initiating inquiries on new issue without complying with mandatory requirements of the relevant CBDT Instruction dated 26-9-2014, 29-12-2015 and 14-7-2016. It has been stated that these instances have been viewed seriously by the CBDT and in one case the Central Inspection Team of the CBDT was tasked with examination of assessment records on receipt of allegations of several irregularities and among other irregularities it was found that no reasons had been recorded for expanding the scope of limited scrutiny, no approval was taken from the Principal Commissioner for conversion of the limited scrutiny case to a complete scrutiny case and the order sheet was maintained very perfunctorily. Further, the CBDT has recorded that this gave rise to a very strong suspicion of mala fide intentions and the Officer concerned has been placed under suspension. Therefore, it was reiterated that the Assessing Officer should abide by the Instructions of CBDT while completing limited scrutiny assessment and should be scrupulous about maintenance of note sheets in assessment folders. ]*

*Thus, considering these aspects, it is viewed that the Tribunal rightly allowed the assessee's appeal on the said issue.*

8. Similarly, the above issue is also covered by the decision of the Coordinate Bench in the case of Vudatha Vani Rao -vs.- Income

Tax Officer [2024] 159 taxmann.com 1394 (Visakhapatnam -Trib.), wherein the issue has been decided in favour of the assessee by holding that the additions made in the assessment order, which were not subject matter of the limited scrutiny, are beyond the jurisdiction of the ld. Assessing Officer and therefore, have to be deleted.

9. Considering the above facts and in the light of above judicial precedences, we are inclined to set aside the order of ld. CIT(Appeals) and direct the ld. Assessing Officer to delete the additions.

10. Since we have allowed the appeal of the assessee on additional ground, the other grounds on merits are not adjudicated at this stage and are being left open for adjudication at later stage if need arises for the same.

**11. In the result, the appeal of the assessee is allowed.**

Order pronounced in the open Court on 18/11/2024.

Sd/-

**(Rajpal Yadav)**  
**Vice-President**

**Kolkata, the 18<sup>th</sup> day of November, 2024**

Sd/-

**(Rajesh Kumar)**  
**Accountant Member**

*Copies to :(1) Narendra Kumar Singh,  
C-404, Jagmano Shree Garden,  
Bailey Road, VEd Nagar, Rukanpura,  
Patna-800014, Bihar*

(2) *Income Tax Officer,  
Ward-5(3), Patna*

(3) *CIT(Appeals), NFAC, Delhi;*

(4) *CIT - , Kolkata;*

(5) *The Departmental Representative;*

(6) *Guard File*

*TRUE COPY*

*By order*

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

***Laha/Sr. P.S.***