

आयकर अपीलीय अधिकरण, पाटना पीठ, पाटना
IN THE INCOME TAX APPELLATE TRIBUNAL PATNA BENCH: PATNA
(VIRTUAL HEARING AT KOLKATA)

श्री राजपाल यादव, उपाध्यक्ष एवं श्री राजेश कुमार, लेखा सदस्य के समक्ष
[Before Shri Rajpal Yadav, Vice-President & Shri Rajesh Kumar, Accountant Member]

I.T.A. No. 203/Pat/2024
Assessment Year: 2017-18

Raj Construction (PAN: AALFR 9784 P)	Vs.	DCIT/ACIT, Circle-6, Patna
Appellant / (अपीलार्थी)		Respondent / (प्रत्यर्थी)

Date of Hearing / सुनवाई की तिथि	23.10.2024
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	20.11.2024
For the Appellant/ निर्धारिती की ओर से	Shri A. K. Rastogi, Sr. Advocate Shri Rakesh Kumar, Advocate
For the Respondent/ राजस्व की ओर से	Shri Ajay Kr. Shukla, JCIT Sr. D.R

ORDER / आदेश

Per Rajesh Kumar, AM:

This is the appeal preferred by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals)-NFAC, Delhi (hereinafter referred to as the Ld. CIT(A)"] dated 06.12.2024 for AY 2017-18.

2. At the outset, the ld. Counsel for the assessee submitted that the Ld. CIT(A) has passed the order without hearing to the assessee though the submissions were filed but not considered in the correct perspective. The Ld. CIT(A) noted that the assessee has not furnished evidences in support of its contentions and hence dismissed the appeal. The ld. Counsel for the assessee submitted before us that even before the AO the case of the assessee was decided ex-parte when the assessee failed to appear on the various dates of hearing and the order was passed u/s 143(3) of the Act dated 15.12.2019 which

should have been passed u/s 144 of the Act. The ld. A.R submitted that the case of the assessee was selected for scrutiny through CASS to verify the cash deposits during demonetization period of Rs. 1,60,00,000/-. The Ld. A.R therefore prayed that the assessee may be given one more opportunity of presenting its case before the AO so that all the evidences could be filed and the case could be decided on merit.

3. The Ld. D.R on the other hand relied on the order of authorities below. The assessee did not make any compliance before both the authorities and therefore the appeal may be dismissed.

4. After hearing the rival contentions and perusing the material on record, we find that the case was decided ex-parte before the AO wherein the AO added Rs. 1,60,00,000/- on account of cash deposited during demonetization period. Similarly, the Ld. CIT(A) decided the issue without affording opportunity of hearing which was requested by the assessee though filed written submissions. Under these facts and circumstances, we are of the view, the ends of justice would be well served if the case of the assessee is restored to the file of the AO . We also direct the assessee to furnish books of account, and other evidences during the set aside assessment proceedings. At this stage we are not commenting the merit of case.

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

Order is pronounced in the open court on 20th November, 2024

Sd/-

Sd/-

(Rajpal Yadav /राजपाल यादव)
Vice-President/उपाध्यक्ष

(Rajesh Kumar/राजेश कुमार)
Accountant Member/लेखा सदस्य

Dated: 20th November, 2024

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- Raj Construction, New Chitragupt Nagar, parwati Path, Kankarbagh, Patna-800020
2. Respondent – DCIT/ACIT, Circle-6, Patna
3. Ld. CIT(A)-NFAC, Delhi
4. Ld. PCIT- , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata