

IN THE INCOME TAX APPELLATE TRIBUNAL
“PATNA BENCH, PATNA
VIRTUAL HEARING AT KOLKATA

Before Shri Duvvuru RL Reddy, Vice-President and Shri Sanjay Awasthi, Accountant Member

I.T.A. No.383/Pat/2024
Assessment Year: 2015-16

Mukesh Kumar (HUF).....Appellant
Flat No.13G, Patliputra Path,
Rajendra Nagar, Patna-800016.
[PAN: AADHM2150E]

vs.

ITO, Ward-6(5), Patna.....Respondent

Appearances by:

Shri A. K. Rastogi, Advocate, appeared on behalf of the appellant.

Shri Ajay Kr. Shukla, JCIT(Sr. DR), appeared on behalf of the Respondent.

Date of concluding the hearing : November 21, 2024

Date of pronouncing the order : November 27, 2024

ORDER

Per Sanjay Awasthi, Accountant Member:

1. This appeal emanates from order u/s 250 dated 03.04.2024 passed by the National Faceless Appeal Centre [hereinafter referred to as ‘CIT(A)’].

1.1 In this case, it is seen that the Assessing Officer added an amount of Rs.61,35,481/- through extremely cryptic findings. At first appeal stage, it is mentioned in the facts, that the ld. CIT(A) called for a remand report on the basis of documents filed by the assessee. However, it appears that even without waiting for the said report, the ld. CIT(A) proceeded ahead with the adjudication and through an extremely brief order confirmed the action of the Assessing Officer.

2. Aggrieved with this action of the ld. CIT(A), the assessee has approached the ITAT through as many as 11 grounds of appeal. However, the ld. AR urged us to decide on Ground Nos.1,2 & 3 before proceeding any further in the matter. These three grounds may be reproduced for reference:

“1. For that the Ld. CIT(A) has erred in deciding appeal *ex parte* and confirming the addition made by the A.O amounting to Rs.61,35,481/-.

2. For that the Ld. CIT(A) has erred in disposing of appeal during pendency of remand proceeding/report as called for by the ld. CIT(A) vide letter no.2025-26 dated 05/08/2019.

3. For that the Ld. CIT(A) has erred in not providing opportunity of being heard and has also erred in not taking due cognizance of the written submission dated 18/05/2018 and the evidences/documents with the said submission.”

2.1 The ld. AR vehemently protested the fact that addition on account of enhancement in share capital was confirmed by the ld. CIT(A) without any opportunity given to the assessee. It was protested that documents filed in support of assessee’s claim were disregarded as the impugned order was passed without waiting for the remand report.

2.2 The ld. DR was agreeable to remanding of this matter back to the ld. CIT(A) for a fresh adjudication.

3. We have considered the facts before us. It is clear that while the order of the Assessing Officer appears brief and cryptic, the impugned order is even more so. Accordingly, there is considerable merit in the ld. AR’s argument that there was denial of opportunity to the assessee as his evidences were not considered before an adverse view was taken by the authorities below. Accordingly, we remand this mater back to the file of the ld. CIT(A) for fresh adjudication after providing an opportunity of being heard to the assessee.

4. In the result, this appeal is allowed for statistical purposes.

Kolkata, the 27th November, 2024.

Sd/-
[Duvvuru RL Reddy]
Vice-President

Sd/-
[Sanjay Awasthi]
Accountant Member

Dated: 27.11.2024.

RS

Copy of the order forwarded to:

1. Mukesh Kumar (HUF)
2. ITO, Ward-6(5), Patna
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches