

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

**Before Shri Duvvuru RL Reddy, Vice-President (KZ)
&
Shri Sanjay Awasthi, Accountant Member**

**I.T.A. No. 377/PAT/2024
Assessment Year: 2017-2018**

***Pramod Kumar,.....Appellant
Galla Mandi, Mirganj,
Gopalganj-841438, Bihar
[PAN:DKAPK8004H]***

-Vs.-

***Income Tax Officer,.....Respondent
Ward-2(4), Siwan,
Bihar-841226***

Appearances by:

N o n e, appeared on behalf of the assessee

*Shri Ajay Kr. Shukla, JCIT, Sr. D.R., appeared on behalf
of the Revenue*

**Date of concluding the hearing: November 21, 2024
Date of pronouncing the order: December 10, 2024**

O R D E R

Per Duvvuru RL Reddy, Vice-President(KZ):-

The present appeal is directed at the instance of assessee against the order of Id. Addl./JCIT(Appeals)-2, Ludhiana dated 23rd February, 2024 passed for Assessment Year 2017-18.

2. Brief facts of the case are that the assessee is a proprietorship concern, who filed his return of income for the assessment year

2017-18 showing total income of Rs.2,37,770/-. The assessee is engaged in the business of wholesale/ retail sale of cattle feeds. The case of the assessee was selected under CASS for scrutiny under section 143(3). Subsequently notice under section 143(2) was issued on 18.08.2018 for compliance on 30.08.2018. Subsequently, notice under section 142(1) alongwith questionnaire was issued on 09.10.2019 for compliance. As the assessee could not respond to the notices issued by the ld. Assessing Officer, the assessment was concluded at an assessed income of Rs.7,28,660/- under section 144 of the Act. On being aggrieved, the assessee preferred an appeal before the ld. CIT(Appeals).

3. The appellant's appeal was fixed for hearing and the ld. Addl./JCIT(Appeals)-2, Ludhiana issued several notices but the assessee did not respond to the notices issued by the ld. Addl./JCIT(Appeals)-2, Ludhiana. Therefore, the ld. CIT(Appeals) has passed an ex-parte order basing on the material available on record and dismissed the assessee's appeal.

4. On being aggrieved, the assessee preferred an appeal before the Tribunal raising the following issues:-

(1) For that orders of the Authority below are bad in law and facts.

(2) For that unfortunately compliance could not be made at the assessment stage because of the negligence of the Counsel handling the case an ex-parte order was passed. Even at the appellate stage the final show cause could not be complied with. The appellant highly regrets the non-compliance and humbly prays that one more opportunity may kindly be given for making submission.

(3) *For that the learned A.O. is not justified in making addition of Rs.5,85,500/- deposited in bank during demonetization period.*

(4) *For that considering the fact that the turnover of the business is Rs.1.27 Crores and the audited accounts and ITR were duly filed u/s 139(1). The addition of Rs 5,85,500/- is uncalled for.*

(5) *For that the appellant is engaged in regular business of cattle feed and the old notes in hand as per books of accounts were deposited in the regular bank account. Thus, the addition made should not have been considered as unexplained money u/s 69A of the I.T Act.*

(6) *For that considering the facts and circumstances of the case necessary orders may kindly be passed and the addition of Rs.5,85,500/- may kindly be deleted.*

5. We have heard D.R. the sides and carefully perused the materials available on record. On examining the facts of the case, we find that the ld. Addl./JCIT(Appeals)-2, Ludhiana had posted the case on several occasions, but there was no response on behalf of the assessee before the ld. Addl./JCIT(Appeals) on the dates of hearing with regard to the details as called for by the ld. CIT(Appeals). Therefore, the ld. Addl./JCIT(Appeals) was left with no other option except adjudicate the appeal *ex-parte* and dismissed the appeal by confirming the addition made by the ld. Assessing Officer. Therefore, we are of the considered view that the ld. Addl./JCIT(Appeals) instead of disposing the appeal on merit dismissed the appeal *ex-parte*. Therefore, considering the facts and circumstances of the case and considering the issues involved in the appeal as well as considering the plea of the ld. A.R., by following the principles of natural justice, we hereby remit the matter back to the file of Ld. Addl./JCIT(Appeals) in order to consider the appeal afresh and decide the case on merits by providing one more opportunity to the assessee of being heard in

accordance with the principles of natural justice. At the same breath, we also hereby caution the assessee to promptly co-operate before the Ld. Addl./JCIT(Appeals) in the proceedings failing which the Ld. Addl./JCIT(Appeals) shall be at liberty to pass appropriate order in accordance with law and merits based on the materials available on the record. Thus, the grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open Court on 10/12/2024.

Sd/-

Sd/-

(Sanjay Awasthi)
Accountant Member

(Duvvuru RL Reddy)
Vice-President (KZ)

Kolkata, the 10th day of December, 2024

*Copies to :(1) Pramod Kumar,
Galla Mandi, Mirganj,
Gopalganj-841438, Bihar*

*(2) Income Tax Officer,
Ward-2(4), Siwan, Bihar-841226*

(3) ADDL/JCIT(A)-2, Ludhiana;

(4) CIT - , Kolkata;

(5) The Departmental Representative;

(6) Guard File

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By order

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

Laha/Sr. P.S.