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. 371/PAT/2024
Assessment Year: 2018-2019

Rahul Anand,……Appellant
Show Road, Muzzafarpur,
Muzzafarpur-842001, Bihar
[PAN:AZHPA1998B]

-Vs.-
Income Tax Officer,……Respondent
Ward-1(1), Muzzafarpur,
Muzzafarpur-842001, Bihar

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 20, 2024
Date of pronouncing the order: December 12, 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 ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 20th February, 2024 passed for Assessment Year 2018-19.

2. The assessee is an individual, who filed his return of income for the assessment year 2018-19 declaring total income of Rs.8,82,010/-. The case was selected for scrutiny to examine the capital introduced during the financial year 2017-18 relevant to the assessment year 2018-19. Notice under section 143(2) was issued to the assessee. Subsequently notice under section 142(1) dated 10.11.2020 was also issued but there was no response from the assessee to the notices issued by the ld. Assessing Officer. However, assessee replied on 07.03.2021 but no details furnished in respect of the capital and stated that the nature of business as circulation of newspapers. On examination of the return of income for the assessment year 2018-19, the ld. Assessing Officer noticed that there was an increase in capital of Rs.2,96,56,878/-. There was no proper explanation, therefore, ld. Assessing Officer issued a show-cause notice to the assessee, but there was no response from the assessee. Thereafter the assessment was completed by adding an amount of Rs.2,96,56,878/- as unexplained income for want of evidence.

3. On being aggrieved, the assessee preferred an appeal before the ld. CIT(Appeals). During the appellate proceedings, the ld. CIT(Appeals) issued several notices to the assessee, but there was no response from the assessee. In the absence of response from the assessee, the ld. CIT(Appeals) relying on various decisions and based on the material available on record, dismissed the appeal of the assessee.

4. On being aggrieved, the assessee preferred an appeal before the ITAT and raised the following grounds:-

> *(1) Whether in facts and circumstances of the case the Hon'ble CIT(A) is justified in upholding the assessment order passed u/s 143(3) read with 144B.*
>
> *(2) Whether in facts and circumstances of the case the Hon'ble CIT(A) is justified in upholding the assessment order passed passed ex-parte by the Ld. AO where he should have given one more opportunity, when the SCN was not responded, particularly in view of the pandemic on account of COVID and the normal life was disrupted.*
>
> *(3) Whether in facts and circumstances of the case the Hon'ble CIT(A) is justified in upholding in making addition of increase in capital of Rs.2,96,56,878/-.*
>
> *(4) Whether in facts and circumstances of the case the Hon'ble CIT(A) is justified in upholding assessment order when the assessment order was passed in hurry and without adhering to principle of natural justice when the due date lor assessment was extended on account of COVID. Efforts should have been made for service of notice through physical mode as the e- assessment was at initial stage.*

5. The ld. Departmental Representative submitted that many number of opportunities have given to the assessee but there was no response from the assessee. Therefore, Revenue Authorities have no option except passing of the order based on the material available on record. He, therefore, pleaded to uphold the order passed by the ld. CIT(Appeals).

6. None appeared on behalf of the assessee at the time hearing. However, as per the grounds of appeal, the main grievance of the assessee is that the ld. CIT(Appeals) passed an order during COVID period, therefore, the assessee did not appear before the ld. CIT(Appeals) to substantiate his claim and pleaded for one more

opportunity of being heard to the assessee considering the facts and circumstances of the case.

7. We have heard the ld. D.R. and perused the material available on record. Considering the facts and circumstances of the case, in order to meet the principle of natural justice, we are inclined to set aside the order passed by the ld. CIT(Appeals) and remit the matter back to the file of ld. CIT(Appeals) with a direction to provide one more opportunity of being heard to the assessee. At the same breath, we also hereby caution the assessee to promptly co-operate with the proceedings before the Ld. CIT(Appeals) failing which the Ld. CIT(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.

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

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

Sd/-	Sd/-
(Sanjay Awasthi)	**(Duvvuru RL Reddy)**
Accountant Member	**Vice-President (KZ)**

Kolkata, the 12th day of December, 2024

Copies to :(1) Rahul Anand,
Show Road, Muzzaffarpur,
Muzzafarpur-842001, Bihar

(2) Income Tax Officer,
Ward-1(1), Muzzafarpur,
Muzzafarpur-842001, Bihar

(3) Commissioner of Income Tax (Appeals); National Faceless Appeal Centre (NFAC), Delhi;
(4) CIT - , Patna;
(5) The Departmental Representative;
(6) Guard File

TRUE COPY

By order

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

Laha/Sr. P.S.