

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

Before Shri Sonjoy Sarma, Judicial Member and Shri Sanjay Awasthi, Accountant Member

I.T.A. No.350/Pat/2023
Assessment Year: 2016-17

Ramagya Contractors Pvt. Ltd.....Appellant
Bhagat Mohalla, Ward No.06,
Supaul, Bihar-854340.
[PAN: AACCR9520P]

vs.

ITO, Ward-3(5), SaharsaRespondent

Appearances by:

None appeared on behalf of the appellant.

Shri Ashwani Kumar, Sr. DR, appeared on behalf of the Respondent.

Date of concluding the hearing : December 17, 2024

Date of pronouncing the order : December 18, 2024

ORDER

Per Sonjoy Sarma, Judicial Member:

The present appeal has been preferred by the assessee against the order dated 27.10.2023 of the National Faceless Appeal Centre [hereinafter referred to as ‘CIT(A)’] passed u/s 250 of the Income Tax Act (hereinafter referred to as the ‘Act’).

2. No one has appeared on behalf of the assessee in spite of serving notice of hearing, therefore, we proceed to decide the appeal with the help of ld. DR and also considering the material available on record.

3. Brief facts of the case are that the assessee is a company and filed its return of income declaring total income of Rs.4,33,200/- on 17.10.2016. Thereafter, the case of the assessee was selected for scrutiny under CASS due to the reasons of amalgamation or demerger during the relevant year. Notice u/s 143(2) of the Act was issued. Subsequently, notice u/s 142(1) of the Act was also issued calling for relevant details/documents. However, the assessee did not comply with

the notices and a final notice was issued to the assessee but the assessee failed to appear before the Assessing Officer. The Assessing Officer on examining the ITR and tax audit report for the assessment year 2016-17 found that the assessee shown an amount of Rs.95,63,737/- as sundry liabilities under the head 'other current liabilities' as on 31.03.2016. The Assessing Officer also found that the assessee disclosed total receipt of Rs.99,69,779/- for the financial year 2015-16. The Assessing Officer issued notice u/s 142(1) of the Act directing the assessee to furnish various details including cash book, bank book, ledger of all the parties, purchase invoice etc. The assessee failed to produce the books of account, purchase invoices, ledger and other supporting documents. In the absence of any documentary evidences, the Assessing Officer treated the unexplained liability of Rs.95,75,237/- u/s 68 of the Act and added the same to the total income of the assessee.

4. Dissatisfied with the above order, the assessee filed an appeal before the ld. CIT(A). However, despite issuance of four notices, there was no compliance from the assessee's side and the ld. CIT(A), based on material available on record, sustained the addition so made by the Assessing Officer.

5. Aggrieved by the order of the ld. CIT(A), the assessee preferred the appeal before this Tribunal, however, the assessee failed to appear on two consecutive dates despite issuing of notice at the address provided in Form 36.

6. We, after hearing the rival submission of the parties and perusing the materials available on record, find that the order of the ld. CIT(A) is an ex parte order against the assessee and the ld. CIT(A) only sustained the order of the Assessing Officer due to non-compliance. We note that it is clear that the assessee could not represent its case before the ld.

CIT(A) and the ld. CIT(A) dismissed the appeal solely on the procedural ground without examining the merits of the case, which is essential condition stipulated u/s 250(6) of the Act. We, therefore, considering the facts of the case and in the interest of justice and fair play, deem it necessary to provide the assessee with one final opportunity to substantiate its claim before the ld. CIT(A). Accordingly, the order of the ld. CIT(A) is set aside and the matter is remanded back to the file of the ld. CIT(A) for decision afresh on merits after providing reasonable opportunity of being heard to the assessee. We also direct the assessee to strictly comply with the notices issued by the ld. CIT(A) during the remand proceedings and furnish all relevant documents to substantiate its claim. If the assessee fails to do so, the ld. CIT(A) shall be at liberty to pass order as deemed fit based on material available on record.

7. In terms of the above, the appeal of the assessee is allowed for statistical purposes.

Kolkata, the 18th December, 2024.

Sd/-
[Sanjay Awasthi]
Accountant Member

Sd/-
[Sonjoy Sarma]
Judicial Member

Dated: 18.12.2024.

RS

Copy of the order forwarded to:

1. Ramagya Contractors Pvt. Ltd
2. ITO, Ward-3(5), Saharsa
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches