

**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.45/Pat/2020**  
Assessment Year: 2015-16

**Joseph Jose.....Appellant**

**House of Dr. Sudhir Kumar,  
Opposite Loyala High School,  
Sadakat Ashram Kurji,  
Patna-800010, Bihar.  
[PAN: AJLPJ6722E]**

**vs.**

**ACIT, Circle-4, Patna.....Respondent**

**Appearances by:**

Shri MS Ahmed 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 23.01.2020 of the Commissioner of Income Tax (Appeals)-2, Patna [hereinafter referred to as ‘CIT(A)’] passed u/s 250 of the Income Tax Act (hereinafter referred to as the ‘Act’).

2. Brief facts of the case are that the assessee is an individual and filed his return of income for the assessment year 2015-16 declaring total income of Rs.13,25,260/- and the main source of income was civil contractor. The case of the assessee was selected for scrutiny under CASS and accordingly, notice u/s 143(2) of the Act was issued. Later on, the case of the assessee was transferred on pecuniary jurisdiction and notice u/s 142(1) r.w.s. 129 of the Act was issued to the assessee. In

compliance to the said notice, the assessee appeared and submitted details of expenses claimed. During the assessment proceedings, the Assessing Officer objected on the expenses relating to labour charges amounting to Rs.13,66,846/- and material consumed amounting to Rs.10,50,836/-. Thereafter, the Assessing Officer directed the assessee to provide supporting documents such as bills, vouchers, bank statement, ledger account for verification of the said expenses. After verification of the documented, the Assessing Officer observed that payments in respect of labour charges were made in cash exceeding Rs.20,000/- totalling to Rs.13,66,846/- and payments in respect of material consumed were made to Jagadampha Traders also in cash exceeding Rs.20,000/- totalling to Rs.10,50,836/-, which is exceeding the prescribed limit. The Assessing Officer issued another notice dated 06.11.2017 asking the assessee to provide explanation and on 17.11.2017, the assessee admitted payments of Rs.5,32,000/- in respect of labour charges and payments made on different dates totalling to Rs.10,50,836/- in respect of material consumed to Jagadampha Traders which were in cash exceeding the prescribed limit of Rs.20,000/-. Accordingly, the Assessing Officer disallowed an amount of Rs.15,82,836/- (Rs.5,32,000/- + Rs.10,50,836/-) u/s 40A(3) of the Act,

3. Aggrieved by the above order, the assessee preferred an appeal before the ld. CIT(A). However, the ld. CIT(A) deleted the addition in respect of labour charges of Rs.5,32,000/- but confirmed the addition of Rs.10,50,836/- in respect of material consumed to Jagadampha Traders in the hands of the assessee.

4. Dissatisfied with the above order, the assessee preferred the appeal before this Tribunal. The main contention of the ld. AR of the assessee before the Bench is that the payments made to Jagadampha Traders were in cash but were splitted into Rs.20,000/- on different

dates and the Assessing Officer incorrectly summed up the payments together, whereas, the transactions were individual and were within the prescribed limit fixed u/s 40A(3) of the Act. The ld. AR has also stated that the ledgers and other supporting documents in order to demonstrate the payments made on different dates were also produced before the ld. CIT(A) but these documents were not properly considered. He, therefore, prayed for deletion of such disallowance made by the authorities below.

5. On the other hand, the ld. DR opposed to the assessee's contention arguing that the assessee has admitted the payments exceeding Rs.20,000/- during the year and the Assessing Officer disallowed the same u/s 40A(3) of the Act, which was justified and the order of the CIT(A) sustaining the addition, may be upheld.

6. We, after hearing the rival submission of the parties and perusing the materials available on record, find that the assessee already admitted that the payments were made in cash. However, the assessee contended before us that the payments were separate or part payment which was made on different dates and the payments were within the threshold limit of Rs.20,000/- as prescribed u/s 40A(3) of the Act. The ledger accounts furnished by the assessee before the Tribunal clearly reflect that the payments made to Jagadampha Traders were made on different dates individually and do not exceed Rs.20,000/-. The assessee contended that the same documents were also produced before the ld. CIT(A) but the ld. CIT(A) was not properly considered the same. Considering the facts of the case and fairness of justice, we deem it necessary to verify the assessee's claim regarding the payment made in respect of material consumed. Accordingly, the instant issue relating to disallowance of Rs.10,50,836/- u/s 40A(3) is set aside and remanded

back to the file of the Assessing Officer to re-examine the limited issue afresh after giving reasonable opportunity of being heard to the assessee.

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

***Kolkata, the 18<sup>th</sup> December, 2024.***

Sd/-  
**[Sanjay Awasthi]**  
**Accountant Member**

Sd/-  
**[Sonjoy Sarma]**  
**Judicial Member**

Dated: 18.12.2024.

RS

*Copy of the order forwarded to:*

1. Joseph Jose
2. ACIT, Circle-4, Patna
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches