

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

Before Shri Sonjoy Sarma, Judicial Member and Shri Rakesh Mishra, Accountant Member

I.T.A. No.284/Pat/2023
Assessment Year: 2017-18

Mohammad Tipu Sultan KhanAppellant

M/s Sultania Traders, Village-Asapur,
PO Behara, Darbhanga,
Bihar – 847201.

[PAN: AWZPK0521F]

vs.

ITO, Ward-3(1), Darbhanga..... Respondent

Appearances by:

Shri Rakesh Kumar, Advocate, appeared on behalf of the appellant.

Shri Ashwani Kr. Singal, JCIT, appeared on behalf of the Respondent.

Date of concluding the hearing : December 17, 2024

Date of pronouncing the order : December 19, 2024

आदेश / ORDER

Per Sonjoy Sarma, Judicial Member:

The present appeal has been preferred by the assessee against the order dated 18.05.2022 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. Brief facts of the case are that the assessee is an individual and did not file Income Tax Return for the assessment year 2017-18. A notice u/s 142(1) of the Act was issued directing the assessee to file a return of income but no response was received from the assessee. Subsequently, the Assessing Officer issued another notice u/s 142(1)(ii) of the Act requiring the assessee to explain cash deposits made during the demonetization period. However this time also, the assessee failed to respond to the notice as well. The Assessing Officer after considering

bank statement observed that the assessee had deposited a sum of Rs.11,57,000/- in SBN old notes during the demonetization period. The Assessing Officer treated this amount as unexplained money u/s 69 of the Act and added the same to the total income of the assessee by computing at special rate of tax u/s 115BBE of the Act. Finally, the assessment was completed u/s 144 of the Act.

4. Dissatisfied with the above order, the assessee preferred an appeal before the ld. CIT(A) against the assessment order. Despite serving repeated notices by the ld. CIT(A), the assessee did not able to appear on ten different occasions which led to the ld. CIT(A) to pass an ex parte order by dismissing the appeal of the assessee and upholding the order of the Assessing Officer.

3. Aggrieved by the order of the ld. CIT(A), the assessee filed the appeal before this Tribunal raising multiple grounds including ground that the ld. CIT(A) passed the impugned order ex parte without adjudicating the merit of the case, which is a violation of principles of natural justice and fair play. The ld. AR stated that both the assessment order and the appellate order were passed without giving the assessee a fair opportunity to present its case by submitting supporting documents to substantiate the claim of the assessee. He, therefore, prayed before the Bench that it is necessary to remand the issue back to the file of the ld. CIT(A) with a direction to decide the appeal on merit.

4. On the other hand, the ld. DR supported the decision rendered by the authorities below.

5. We, after hearing the submissions of the parties and perusing the materials available on record, find that that both the assessment order and the appellate order were passed ex parte since no compliance was made on the part of the assessee. We also find that the orders of the

authorities below were passed without addressing the merit of the case which is contrary to the mandate of section 250(6) of the Act. We, therefore, deem it fit to remand the matter back to the file of the Id. CIT(A) with a direction to re-examine the issue on merits after providing reasonable opportunity to the assessee of being heard to submit all the relevant details or documents to substantiate the claim of the assessee. We also emphasise that the assessee must fully cooperate by responding all notices and due compliance will made during the remand proceedings.

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

Kolkata, the 19th December, 2024.

Sd/-

[Rakesh Mishra]

लेखा सदस्य/Accountant Member

Sd/-

[Sonjoy Sarma]

न्यायिक सदस्य/Judicial Member

Dated: 19.12.2024.

RS

Copy of the order forwarded to:

1. Mohammad Tipu Sultan Khan
2. ITO, Ward-3(1), Darbhanga
3. CIT (A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches