

**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.354/Pat/2023**  
Assessment Year: 2017-18

**Mahabir Prasad Jain.....Appellant**

Tekari Road, Purani  
Godown, Gaya (Bihar),  
Bihar- 823001.

**[PAN: ACBPJ8044N]**

**vs.**

**ITO, Ward-3(1), Gaya..... Respondent**

**Appearances by:**

Shri Jitendra Kr. Sinha, Advocate, appeared on behalf of the appellant.

Shri Ajay Kr. Shukla, JCIT, appeared on behalf of the Respondent.

Date of concluding the hearing : December 18, 2024

Date of pronouncing the order : December 23, 2024

**आदेश / ORDER**

**Per Sonjoy Sarma, Judicial Member:**

The present appeal has been preferred by the assessee against the order dated 13.10.2023 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. At the outset, the ld. AR submitted that there is a delay of 05 days in filing the instant appeal. The assessee has submitted an application for condonation of delay citing reasonable grounds. After considering the averments made in the application, we condone the delay.

3. Brief facts of the case are that the assessee is a senior citizen and engaged in the wholesale business of salt. The assessee did not file a return of income for the relevant assessment year due to severe health issues. The Assessing Officer observed that the assessee had made cash

deposits in bank account. The case of the assessee was reopened by issuing notice u/s 148 of the Act on 06.06.2018 but no response was received citing health problems. Later on, the assessee tried to file the return but could not comply with the notices issued and the Assessing Officer completed the assessment on 29.11.2019 u/s 144/147 of the Act determining total income of Rs.43,58,745/- by invoking provision of section 69A of the Act.

4. Dissatisfied with the above order, the assessee preferred an appeal before the ld. CIT(A) against the assessment order. The ld. CIT(A) granted partial relief to the assessee. However, the ld. CIT(A) sustained the addition relating to cash deposits made during the demonetization period despite submitting various supporting documents in order to substantiate his case. The ld. CIT(A) without appreciating the documents and facts of the case sustained the addition to the tune of Rs.26,75,000/-.

5. Aggrieved by the above order, the assessee approached this Tribunal. The contention of the ld. AR is that proper documentation such as reconciliation sale with bank transaction, month-wise sale ledger, bank statement were submitted to substantiate the transaction before the lower authorities, which were duly and properly recorded and filed. However, certain documents could not be furnished at the time of hearing before the ld. CIT(A). Therefore, the ld. AR prayed before the Bench that the instant issue may be remanded back to the file of the Assessing Officer to examine the issue afresh in relation to cash deposits made during the demonetization period.

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

7. We, after hearing the submissions of the parties and perusing the materials available on record, find that the assessee did not get a reasonable opportunity to present complete explanation or details before the lower authorities and did not make due compliance of the notices sent due to severe health issue. We further note that the impugned order passed u/s 144 of the Act is an ex parte order against the assessee. We, therefore, deem it necessary to remand back the issue to the file of the Assessing Officer with a direction to re-examine the case on merits keeping in mind the new evidences filed by the assessee after giving reasonable opportunity of being heard to the assessee to represent his case to ensure fair and proper assessment. We also direct the assessee to cooperate fully with the proceedings and respond promptly to all notices issued by the Assessing Officer.

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

***Kolkata, the 23<sup>rd</sup> December, 2024.***

Sd/-

**[Rakesh Mishra]**

लेखा सदस्य/Accountant Member

Sd/-

**[Sonjoy Sarma]**

न्यायिक सदस्य/Judicial Member

Dated: 23.12.2024.

RS

*Copy of the order forwarded to:*

1. Mahabir Prasad Jain
2. ITO, Ward-3(1), Gaya
3. CIT (A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches