

**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. Nos.475&476/Pat/2022**  
Assessment Years: 2015-16 & 2017-18

**Bharat Rai.....Appellant**  
**Prop Sanjeev Construction,**  
**Minapur, Muzaffarpur,**  
**Bihar – 843128.**  
**[PAN: AIAPR8158A]**

**vs.**

**ACIT, Circle-1, Muzaffarpur.....Respondent**

**Appearances by:**

Shri N. K. Lal, FCA, appeared on behalf of the appellant.

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

Date of concluding the hearing : December 19, 2024

Date of pronouncing the order : December 23, 2024

**ORDER**

**Per Sonjoy Sarma, Judicial Member:**

The present appeals have been preferred by the assessee against separate orders both dated 08.04.2022 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’) for assessment years 2015-16 & 2017-18 respectively. Since, the issues involved in both the appeals are common and relate to the same assessee, therefore, these appeals have been heard together and are being disposed of by this consolidated order.

2. At the outset, the ld. AR submitted that there is a delay of 60 days in filing both the appeals. The assessee has filed applications for condonation of delay citing valid and proper reasons. After considering the averments made in the applications, we condone the delay in both the appeals.

3. First, we take up the issue in respect of ITA No.475/Pat/2022 for assessment year 2015-16. Brief facts of the case are that the assessee is engaged in civil contract business of road construction and declared his return of income at Rs.49,57,860/- for the assessment year 2015-16. The Assessing Officer passed an order u/s 143(3) of the Act dated 04.09.2017 by making an addition of Rs.27,92,865/- on account of discrepancies between gross receipt reported in Form 26AS and receipts disclosed in ITR.

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.

5. Aggrieved by the order of the ld. CIT(A), the assessee filed the appeal before this Tribunal raising multiple grounds. However, the main contention of the ld. AR is 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 and the appellate order was 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.

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

7. We, after hearing the submissions of the parties and perusing the materials available on record, find that that the appellate order was

passed ex parte since no compliance was made on the part of the assessee. We also find that the order of the Id. CIT(A) was 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.

8. Since the facts and issues involved in both these appeals are identical, therefore, our findings/directions given above in ITA No.475/Pat/2022 will mutatis mutandis apply to ITA No.476/Pat/2022. Hence, ITA No.476/Pat/2022 is also allowed for statistical purposes.

9. In terms of the above, both the appeals of the assessee are allowed for statistical purposes.

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

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

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

Dated: 23.12.2024.

RS

*Copy of the order forwarded to:*

1. Bharat Rai
2. ACIT, Circle-1, Muzaffarpur
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches