

**IN THE INCOME TAX APPELLATE TRIBUNAL PATNA BENCH, PATNA
(Through Virtual hearing at Kolkata)**

**BEFORE SHRI SONJOY SARMA, JM
AND
SHRI SANJAY AWASTHI, AM**

**ITA No. 346/PAT/2023
(Assessment Year: 2012-13)**

Shri Shambhu Sharan Singh
Amtha Khem, Line Bazar,
Meerganj, Gopalganj,
Bihar-841438

Vs.

**Asst. Commissioner of
Income Tax**
Circle-2(1), Muzaffarpur
Aaykar Bhavan, Near Nehru,
Stadium, Sikandarpur,
Muzaffarpur-842001,
Bihar

(Appellant)

(Respondent)

PAN No. AAYFS8234L

Assessee by : Shri Manish Rastogi, AR
Revenue by : Shri Ajay Kr. Shukla, DR

Date of hearing: 18.12.2024
Date of pronouncement : 23.12.2024

ORDER

Per Shri Sonjoy Sarma, JM:

In the case of present assessee filed a return of income for assessment year 2012-13, declaring an amount of Rs.65,87,030/-.

02. The original assessment order u/s 143(3) of the Act was completed on 19.03.2015 at Rs.72,31,410/-. Later, the Id. PCIT invoked section 263 of the Income-tax Act, 1961 (the Act) to revise the assessment due to specific issues not properly examined by the Id. Assessing Officer on the issue of Rs.1,61,03,705/- credited in the bank A/c of the assessee and sum of Rs.5,81,189/- was left to be included in the



gross contractual receipt during the year. Further, sum of Rs.72,08,670/- was withheld by deductor under head of 'time extension', which was required to be entered in B/s, but assessee has shown the alleged sum in the P&L Account by debiting as expenses, which were not properly examined by the Id. Assessing Officer while framing the original assessment order. Therefore, the Id. AO issued notice u/s 142(1) of the Act to the assessee. However, the assessee never turned up before the Id. Assessing Officer despite repeated opportunities given, leading to the that the Id. Assessing Officer completed the assessment u/s 144 of the Act by adding the sum of rs.72,08,670/- treated as part of the total income instead of being shown as expenses in P&L Account and sum of Rs.5,81,189/- treated as explained income which was not reflected in the return by assessing the total income at Rs.143,70,688/-.

03. Dissatisfied with the above order assessee went in appeal before the Id. CIT(A) but failed to appear on 16th consecutive hearing dates, leading to this the Id. CIT(A) has passed an *ex-parte* order against the assessee.
04. Aggrieved by the order of the Id. CIT(A), assessee appealed to the Tribunal raising several grounds primarily arguing that the *ex-parte* order of the Id. Assessing Officer and CIT(A) denied the assessee an opportunity to present its case. Therefore, the Id. AR requested another opportunity to comply and provide support evidence in order to controverted the facts.
05. On the other hand, the Id. DR opposed the appeal, emphasizing that the assessee has non-compliance history and arguing for dismissal of assessee's appeal.



06. We after hearing the rival submissions of the parties and perusing the material available on record, we note that the assessee had repeatedly failed to comply with the notices and hearing dates, but in the principles of the natural justice assessee required giving at least one more opportunity to present its case and considering the submissions of the Id. AR that the assessee's non-compliance was due to ignore of its engaged counsel and assured full co-operation going forward. We therefore, feel it necessary to remand back the whole issue to the file of the Id. Assessing Officer with a direction that reasonable opportunity of being heard to the assessee during *denovo* proceedings. The assessee is directed to fully comply with all notices issued by the Id. Assessing Officer.

07. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 23.12.2024.

Sd/-
(SANJAY AWASTHI)
(ACCOUNTANT MEMBER)

Sd/-
(SONJOY SARMA)
(JUDICIAL MEMBER)

Kolkata, Dated:23.12.2024

Sudip Sarkar, Sr.PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. CIT
4. DR, ITAT,
5. Guard file.

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Patna