

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.616/Pat/2024
Assessment Year: 2017-18

Sanjay Kr. Pandey.....Appellant

S. K. Enclave Professor Colony,
Near Ojha Lodge, Shivpuri,
Patna, Bihar-800023.

[PAN: ALUPP8547J]

vs.

ITO, Ward-6(2), Patna..... Respondent

Appearances by:

None appeared on behalf of the appellant.

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

Date of concluding the hearing : December 19, 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 14.06.2024 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 Registry has informed that there is a delay of 63 days in filing the appeal. The assessee filed an application for condonation of delay stating reasons for such delay. After considering the application, we find reasonable cause and condone the delay in filing the appeal and adjudicate the appeal on merits of the case.

3. No one has appeared on behalf of the assessee in spite of serving notice of hearing, therefore, we proceed to decide the appeal with the help of ld. DR and also considering the material available on record.

4. Brief facts of the case are that the assessee is an individual and filed his return of income by declaring total income u/s 44AD of on 03.08.2017 for the assessment year 2017-18 comprising trading of Rs.1,92,500/-, interest income of Rs.3715/- and agriculture income of Rs.6,23,511/-. As the income of the assessee was out of tax limit, therefore, no liability was disclosed in the return and it was processed u/s 143(1) of the Act by determining total income of the assessee at Rs.23,14,011/- by making two additions i.e. unexplained cash deposit in the bank of Rs.14,98,000/- and unexplained agriculture income u/s 68 of the Act at Rs.6,23,511/- in the hands of the assessee.

5. Dissatisfied with the above order, the assessee filed an appeal before the ld. CIT(A). However, despite issuance of four notices, there was no compliance from the assessee's side and the ld. CIT(A), based on material available on record, sustained the addition so made by the Assessing Officer.

5. Aggrieved by the order of the ld. CIT(A), the assessee preferred the appeal before this Tribunal, however, the assessee failed to appear on despite issuing of notice.

6. We, after hearing the rival submission of the parties and perusing the materials available on record, find that the order of the ld. CIT(A) is an ex parte order against the assessee and the ld. CIT(A) only sustained the order of the Assessing Officer due to non-compliance. We note that it is clear that the assessee could not represent his case before the ld. CIT(A) and the ld. CIT(A) dismissed the appeal solely on the procedural ground without examining the merits of the case, which is essential condition stipulated u/s 250(6) of the Act. We, therefore, considering the facts of the case and in the interest of justice and fair play, deem it necessary to provide the assessee with one final opportunity to substantiate his claim before the ld. CIT(A). Accordingly, the order of the

ld. CIT(A) is set aside and the matter is remanded back to the file of the ld. CIT(A) for decision afresh on merits after providing reasonable opportunity of being heard to the assessee. We also direct the assessee to strictly comply with the notices issued by the ld. CIT(A) during the remand proceedings and furnish all relevant documents to substantiate his claim. If the assessee fails to do so, the ld. CIT(A) shall be at liberty to pass order as deemed fit based on material available on record.

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

Kolkata, the 23rd 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. Sanjay Kr. Pandey
2. ITO, Ward-6(2), Patna
3. CIT (A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches