

IN THE INCOME TAX APPELLATE TRIBUNAL "PATNA BENCH" PATNA

**SHRI SONJOY SARMA, JUDICIAL MEMBER
SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER**

**I.T.A. No. 313/Pat/2024
Assessment Year: 2013-14**

Rajeev Kumar Singh,

C/o Subedar Singh, Kevani Tola,

Aurangabad - 824101

[PAN: BWWPS3241J]

..... **Appellant**

vs.

Commissioner of Income Tax,

Aurangabad,

Bihar - 824101

..... **Respondent**

Appearances by:

Assessee represented by : None

Department represented by : Sh. Ajay Kr. Shukla JCIT (Sr. DR)

Date of concluding the hearing : 18.12.2024

Date of pronouncing the order : 20.12.2024

ORDER

PER SANJAY AWASTHI, ACCOUNTANT MEMBER:

1. In this case, there is a delay in filing of this appeal for which the assessee has filed an affidavit, requesting for condonation of the same. The main reason advanced for delayed filing (82 days) is that the AR of the assessee, one Mr. Praveen Sharma, had problems in his family to the extent that his brother-in-law had died and his father needed to be treated for a stroke. It has been averred that it is for these reasons that the assessee's appeal could not be filed on time.

1.1 Considering the reasons advanced for condonation of said delay, the same is hereby condoned and this appeal is admitted for adjudication.

2. The present appeal emanates from the order u/s 250 of the Income Tax Act, 1961 (hereafter 'the Act') passed by the Ld. CIT(A), National Faceless Appeal Centre (NFAC), Delhi, vide order dated 25.10.2023. The Ld. CIT(A) has confirmed the addition of Rs. 1,38,47,760/- made u/s 69A of the Act, on account of cash deposit in the bank account. In the impugned order, it is mentioned that the assessee could not make any presentation before the Ld. AO due to ill health of certain family members. Admittedly, no compliance was made before the Ld. CIT(A) also since it has been recorded in para 5 that three opportunities given for presenting the case before the Ld. CIT(A) went un-responded. Thereafter, the Ld. CIT(A) merely confirmed the addition made by the Ld. AO.

2.1 Aggrieved with this action, the assessee has approached the ITAT through two, rather lengthy, grounds of appeal as under:

"1. The Learned Assessing Officer contended that cash deposited in Bank Account of Rs. 1,38,47,760.00 is unexplained as return of income was not filed for AY 2013-14. Total cash deposited in the Bank Account of Rs. 1,38,47,760.00 was related to sale proceeds from distributorship business but due to certain unavoidable reasons ITR was not filed. In May 2012 father's of the assessee health got severe due to BP and diabetes, he had a kidney and heart disease. Assessee went to DELHI AIIMS, VARANASI and PATNA but could not saved and he died, after his funeral mother of the assessee health got serious and after a checkup it was found that she has cancer. she also died on 14/07/2013. This tragedy isolated the assessee with everything. So, ITR could not filed with other forms Assessee was engaged in distributorship business and gross margin of distributorship range between 1.50% to 2% and the net profit margin remains only about 1% to 1.50%.

2 Addition of Income amounting Rs. 1,38,47,760.00 u/s 69A of Income Tax act, 1961 is not correct."

3. None appeared from the side of the assessee, however, with the assistance of Ld. DR we were able to go through the orders of authorities below. It is readily visible that the assessee could not avail of opportunities given to him for presenting his case before the authorities below. It is obvious that the impugned addition is a result of such non-compliance to the notices issued by the Ld. AO/Ld. CIT(A). Considering that the assessee has pleaded for leniency on the ground of being prevented from presenting his case before the authorities below, due to illness and bereavement

within his family, hence, we deem it fit to remand the matter back to the file of Ld. AO for fresh assessment. Needless to say, the assessee would do well to avail of whatever opportunities are given to him for presenting his case. The matter is accordingly remanded to the Ld. AO.

3. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the court on 20.12.2024

Sd/-
[Sonjoy Sarma]
Judicial Member

Sd/-
[Sanjay Awasthi]
Accountant Member

Dated: 20.12.2024.
AK, PS

Copy of the order forwarded to:

1. Rajeev Kumar Singh
2. Commissioner of Income Tax, Aurangabad
3. CIT(A)-
4. CIT-
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches