

**IN THE INCOME TAX APPELLATE TRIBUNAL,
KOLKATA-PATNA 'e-COURT', KOLKATA
[Hybrid Court Hearing]**

Before Shri Duvvuru RL Reddy, Vice-President (KZ)

**I.T.A. No. 256/PAT/2024
Assessment Year: 2017-2018**

***Kanak Bala Devi,.....Appellant
Malhi Patti, Baidrabad,
Arwal-804402,
Bihar
[PAN:BDCPD6380C]***

-Vs.-

***Income Tax Officer,.....Respondent
Ward-3(3), Aurangabad***

Appearances by:

Shri Rahul Prag, CA, appeared on behalf of the assessee

*Shri Ashwani Kr. Singal, JCIT, appeared on behalf of
the Revenue*

Date of concluding the hearing: November 28, 2024

Date of pronouncing the order: December 31, 2024

O R D E R

The present appeal is directed at the instance of assessee against the order of Id. Addl./JCIT(Appeal)-5, Kolkata dated 18th December, 2023 passed for Assessment Year 2017-18.

2. Brief facts of the case are that the assessee is an individual who derives income from business. The case of the assessee was selected for scrutiny. A notice under section 143(2) of the Act was issued and the same was served upon the assessee. But the

assessee did not respond to the notice. Consequently, the Id. Assessing Officer passed the assessment order under section 144/147 of the Act by making an addition of Rs.9,23,152/-.

3. On being aggrieved, the assessee preferred an appeal before the Id. CIT(Appeals). After considering the submission of the assessee, the Id. Addl./JCIT(Appeal) dismissed the appeal filed by the assessee.

4. On being aggrieved, the assessee preferred an appeal before the Tribunal and raised the following issues:-

“(1) For that on the facts and circumstances of the case, the Assessing Officer and CIT(A) have erred in making addition of Rs.5,50,000/- on account of alleged impugned income, by taking sales proceeds as unaccounted and unexplained income.

(2) For that in the facts and circumstances of the case, the Assessing Officer and CIT(A) have erred in making addition of Rs.3,73,152/- on account of alleged impugned income, by taking 8% of total turnover as income.

(3) For that in the facts and circumstances of the case, the charge of interest u/s 234A at Rs.37,784/- and Rs.1,46,413/- is arbitrary, unjust and bad in law. The interest may be quantified in view of jurisdictional High Court decisions. The interest as charged/quantified is fit to be deleted/modified.

5. I have heard both the sides. It was the submission of the assessee that the assessee has deposited an amount of Rs.11,82,500/- and the sources for the said amount were the sale

proceeds from the wholesale trade of potatoes and onions. He further submitted that out of total cash deposit of Rs.11,82,500/- , the ld. Assessing Officer treated the first deposit of Rs.5,50,000/- made on 10.11.2016 as unaccounted and also added Rs.3,73,152/- assessing income taken at the rate of 8 percent of the turnover declared in the ITR. He further submitted that the ld. Assessing Officer has not disputed the business of the assessee and he estimated the income at 8% of the total turnover. But at the same time, the ld. Assessing Officer treated the cash deposit of Rs.5,50,000/- as unaccounted. He further submitted that the sales on cash ledger were placed before the ld. CIT(Appeals) during the appellate proceedings, which show that the sale proceeds declared by the assessee exceeds the cash deposit made by the assessee during financial year 2016-17. He, therefore, pleaded to delete the addition made by the ld. Assessing Officer as well as ld. CIT(Appeals).

6. On the other hand, ld. D.R. submitted that the assessee failed to furnish the names of the distributors from whom cash was received and creditors to whom cash was paid. Therefore, the ld. Assessing Officer as well as ld. CIT(Appeals) rejected the plea taken by the assessee. He pleaded to uphold the orders passed by the revenue authorities.

7. I have perused the material available on record. It is an admitted fact that the assessee has declared the total turnover of Rs.81,16,658/- as income from business and total gross income in the return has been declared at Rs.2,32,181/-. The main grievance of the Revenue is that the assessee did not upload any

purchase/sales vouchers in support of her submission. Therefore, the first amount of Rs.5,50,000/- deposited on 10.11.2016 was treated as unaccounted. On this aspect, the assessee has declared the total turnover at Rs.81,16,658/-, therefore, merely because of not filing the details of purchase and sales vouchers is not the criteria to say that the assessee's first cash deposit of Rs.5,50,000/- as unexplained is not correct. As per the assessee, she has submitted the cash book and sales vouchers before the Id. CIT(Appeals), on my verification which clearly establish that her turnover is more than the deposits. Therefore, I am of the firm view that the Id. Assessing Officer is not correct to declare Rs.5,50,000/- was unexplained cash credit during demonetization period. Hence, I direct the Id. Assessing Officer to delete the addition made by the Id. Assessing Officer on this account.

8. So far as 8% of the estimation of business of the assessee has no basis and it is Id. Assessing Officer's mere assumption. Considering the nature of the business of the assessee, I am of the considered view that 5% is appropriate to estimate the income of the assessee. Therefore, 5% is to be calculated on the total turnover of the assessee instead of 8%. Therefore, I direct the Id. Assessing Officer to estimate 5% on the turnover of the assessee. Hence, the grounds raised by the assessee are partly allowed.

9. In the result, the appeal filed by the assessee is partly allowed.

Order pronounced in the open Court on 31/12/2024.

Sd/-
(Duvvuru RL Reddy)
Vice-President (KZ)

Kolkata, the 31st day of December, 2024

*Copies to :(1) Kanak Bala Devi,
Malhi Patti, Baidrabad, Arwal-804402,
Bihar*

- (2) Income Tax Officer,
Ward-3(3), Aurangabad*
 - (3) Addl/JCIT(Appeals)-5, Kolkata;*
 - (4) CIT - , Patna;*
 - (5) The Departmental Representative;*
 - (6) Guard File*
- TRUE COPY*

*By order
Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha/Sr. P.S.