

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“PATNA BENCH, PATNA**  
**VIRTUAL HEARING AT KOLKATA**

**Before Shri Duvvuru RL Reddy, Vice-President and Shri Sanjay Awasthi, Accountant Member**

**I.T.A. Nos.326&327/Pat/2023**

Assessment Year: 2013-14

**Vinod Pandey.....Appellant**  
**Siv Sagar, Rohtas,**  
**Bihar-821113.**  
**[PAN: BDQPP7066M]**

**vs.**

**ITO, Sasaram.....Respondent**

**Appearances by:**

None appeared on behalf of the appellant.

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

Date of concluding the hearing : November 27, 2024

Date of pronouncing the order : December 10, 2024

**ORDER**

**Per Sanjay Awasthi, Accountant Member:**

1. These are a bunch of two appeals, both for A.Y 2013-14 through which an addition has been made on account of cash deposits in quantum and a penalty u/s 271(1)(c) of the Income Tax Act (hereinafter the 'Act') has also been levied thereon. Since the issues are interconnected, these two matters are being taken up for adjudication together.

1.1 The present appeals emanate from orders u/s 250 of the Act passed by the Id. CIT(A), NFAC. The issue in brief is that the assessee was seen to have deposited Rs.51,95,000/- in his bank account for which his case was reopened u/s 147 of the Act. Admittedly, the assessee did not file any return of income in response to notice u/s 148 of the Act. It is seen that there was no effective compliance to notices issued by the Assessing Officer for eliciting responses on the points on which the case was reopened. The Assessing Officer, thereafter, passed an order u/s 147 of the Act.

1.2 Before the Id. CIT(A) also, the assessee did not represent his case appropriately leading to the Id. CIT(A) recording in the quantum matter as under:

*“5.3 The assessee has not, during the present proceedings, offered any argument in support of his grounds of appeal. The only argument is contained in the statements of facts submitted by the assessee along with form 35. Wherein the assessee has stated that he is engaged in the business of trading of Agricultural produce. On careful examination of grounds of appeal filed by the assessee it can be appreciated that they are argumentative in nature. There is no issue or ground on which adjudication is required. From the perusal of the grounds it is seen that the assessee claims to be broker of agriculture produce namely wheat and rice. The assessee further states (Ground no. 2) that he receives payment from the buyers which is also in cash which is in turn deposited in the bank account by the assessee.*

*5.4 All the above averments are factual in nature. Which requires to be proven with help of evidences. During the assessment or the present proceedings the assessee has not made any submission much less any evidence to prove the averment made by him. At this juncture, it is also pertinent to refer to form 35 submitted by the assessee while filing the appeal. At item sr. No. 12 of form 35 the assessee has specifically stated that he does not intend to produce any documentary as evidence other than what was produced before the AO. Which means, in the present case that the assessee does not propose to support his claim by any documentary evidence. All the argument contained in this statement of facts and grounds of appeal are therefore, unsubstantiated, facile and self-serving. Therefore, none of these arguments relating to the facts of present appeal are accepted.”*

2. Aggrieved, the assessee has approached the ITAT with as many as 17 grounds which challenge the quantum addition and also the assumption of jurisdiction through an alleged incorrect application of section 147/148 of the Act.

3. We have gone through the records before us with the help of Id. DR, as none appeared on behalf of the assessee. It is seen that none of the authorities below had any benefit of a meaningful representation from the assessee's side. Thus, it is felt, in the interest of substantive justice, that this matter should be restored back to the file of the Id.

CIT(A) to enable him to address the issues raised before us and adjudicate afresh. The assessee would do well to make a proper representation of his case. We direct accordingly for the quantum matter (ITA No.326/Pat/2023).

3.1 Regarding the penalty matter (ITA No.327/Pat/2023), the action of Ld. CIT(A) in confirming the levy of penalty, has been challenged through as many as 15 grounds of appeal. However, since the quantum has been remanded back to the ld. CIT(A), the impugned penalty proceedings cannot survive.

4. Accordingly, ITA No.326/Pat/2023 is allowed for statistical purposes, whereas ITA No.327/Pat/2023 is allowed.

***Kolkata, the 10<sup>th</sup> December, 2024.***

Sd/-  
[Duvvuru RL Reddy]  
Vice-President

Sd/-  
[Sanjay Awasthi]  
Accountant Member

Dated: 10.12.2024.

RS

*Copy of the order forwarded to:*

1. Vinod Pandey
2. ITO, Sasaram
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches