

**IN THE INCOME TAX APPELLATE TRIBUNAL "PATNA BENCH" PATNA**  
**(VIRTUAL HEARING AT KOLKATA)**

**SHRI DUVVURU RL REDDY, VICE PRESIDENT**  
**SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER**

**I.T.A. No. 362/Pat/2023**  
**Assessment Year: 2013-14**  
**&**  
**I.T.A. No. 363/Pat/2023**  
**Assessment Year: 2013-14**

**Bihar Medical Services and  
Infrastructure Corporation Limited,**

4<sup>th</sup> Floor, BSBCCL, Shastri Nagar,  
Patna - 800023

[PAN: AAECB3969N]

..... **Appellant**

**vs.**

**Additional/Joint Commissioner of Income Tax,  
National Faceless Assessment Centre,  
Delhi**

..... **Respondent**

**Appearances by:**

Assessee represented by : None  
Department represented by : Ashok Kumar, CIT

Date of concluding the hearing : 31.12.2024

Date of pronouncing the order : 06.01.2025

**ORDER**

**PER SANJAY AWASTHI, ACCOUNTANT MEMBER:**

1. This is a batch of two appeals for A.Y. 2013-14 emanating from orders of the Ld. Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi (hereinafter referred to as the "Ld. CIT(A)"), passed under Section 250 of the Income Tax Act, 1961 (hereafter 'the Act') both dated 25.10.2023.

1.1 The appeal (ITA No. 362/Pat/2023) pertains to an addition of Rs. 12,26,59,188/- made on account of unexplained increase in current liability. Admittedly, this addition has been made in the said assessment due to lack of compliance from the assessee.

1.2 For (ITA No. 363/Pat/2023) the matter pertains to a penalty under Section 271((1)(b) of the Act levied on account of no response being filed before the Assessing Officer to the notices issued by him. It is seen that even before the Ld. CIT(A), the assessee did not make any worthwhile presentation except that written submissions were filed in which it was mentioned that compliance could not be made before the Ld. Assessing Officer because a number of staff were suffering from COVID and hence were not alert enough to make proper representation before the Revenue Authorities. However, going by the fact that even before the Ld. CIT(A) there was no worthwhile compliance on the dates fixed for hearing, this issue was also held against the assessee.

2. Aggrieved with these actions, the assessee has filed two appeals before the ITAT as per the following grounds of appeal:

ITA No. 362/Pat/2023

*"1. For that the Ld. CIT(A) has erred in passing ex-parte order and thereby has violated the principles of Equity, Natural Justice and Fairplay.*

*2. For that the Ld. CIT(A) has erred in uploading the notices on e-portal under the tab 'For your information' not under the tab 'For your action'.*

*3. For that the Ld. CIT(A) has failed to appreciate that since no message/ email of uploading of notices of hearing were received on registered email Id and/or registered mobile no., compliance could not be made.*

*4. For that the Ld. CIT(A) has erred in relying on the judgment of the Apex Court in the cases of Vedabai Alias Vijayanatabai Baburao Patil vs. Shantaram Baburao Patil and Ors. reported in (2002) 253 ITR 798, Ishwarlalmali Rahod vs Gopal & Ors in SLP (Civil) 14117-14118 of 2021 vide order dated 20/09/2021 and B.N. Bhattacharjee and Anr. vs. CIT reported in (1979) 118 ITR 461 and the maxim for holding that the appellant is not diligent and careful in pursuing the appellate proceedings.*

*5. For that the Ld. CIT(A) has erred in sustaining the addition of Rs. 12.26 crores on account of interest on funds from Govt. of Bihar.*

6. For that the sustenance of addition of Rs.12.26 crores in an ex-parte order is wrong, illegal and unjustified in the facts and circumstances of the appellant's case.
7. For that the Ld. CIT(A) has erred in upholding initiation of proceedings u/s 147/148 even though the condition precedent for such invocation i.e. failure on the part of appellant as contemplated under first proviso to section 147 is absent.
8. For that the Ld. CIT(A) has erred in relying on the judgment of the Apex Court in the case of Calcutta Discount that too in absence of any allegation in terms of first proviso to section 147 either in the recorded reason or in the sanction u/s 151.
9. For that the Ld. CIT(A) has erred in upholding the initiation of proceeding u/s 147/148 even though the same has been initiated on mere change of opinion.
10. For that the appellant reserves its right to furnish detailed written submission along with documents and evidences on or before date of hearing.
11. For that the appellant may be given opportunity of personal hearing physically/virtually at the time of hearing of the appeal.
12. For that the whole order is bad in fact and law of the case and is fit to be annulled and/or modified or restored back to CIT(A) with a direction to give opportunity to the appellant.
13. For that the other grounds, if any, shall be urged at the time of hearing of the appeal.”

ITA No. 363/Pat/2023

- “1. For that the Ld. CIT(A) has erred in passing ex-parte order and thereby has violated the principles of Equity, Natural Justice and Fairplay.
2. For that the Ld. CIT(A) has erred in uploading the notices on e-portal under the tab 'For your information' not under the tab 'For your action'.
3. For that the Ld. CIT(A) has failed to appreciate that since no message/ email of uploading of notices of hearing were received on registered email Id and/or registered mobile no., compliance could not be made.
4. For that the Ld. CIT(A) has erred in relying on the judgment of the Apex Court in the case of B.N. Bhattacharjee and the maxim for holding that the appellant is not diligent and careful in pursuing the appellate proceedings.
5. For that the Ld. CIT(A) has erred in requisitioning the proof of medical ailment of the employee and the consultant who were suffering from COVID in support of non-compliance in course of assessment proceedings vide notices u/s 142(1) dated 15/07/2021 and 07/02/2022.
6. For that the requisitioning of proof in support of medical ailment is contrary to the judgment of the Hon'ble Supreme Court extending the timeline for filing of appeal etc. across all enactments.

7. For that the Ld. CIT(A) has failed to appreciate that the appellant was prevented by sufficient and reasonable cause in making compliance to notices u/s 142(1) during re-assessment proceedings.

8. For that the Ld. CIT(A) has erred in confirming penalty u/s 271(1)(b) amounting to Rs.20,000/-.

9. For that the imposition of penalty in an ex-parte order is wrong, illegal and unjustified in the facts and circumstances of the appellant's case.

10. For that the appellant reserves its right to furnish detailed written submission along with documents and evidences on or before date of hearing.

11. For that the appellant may be given opportunity of personal hearing physically/virtually at the time of hearing of the appeal.

12. For that the whole order is bad in fact and law of the case and is fit to be cancelled and/or restored back to CIT(A) with a direction to give opportunity to the appellant.

13. For that the other grounds, if any, shall be urged at the time of hearing of the appeal.”

3. On the last date of hearing, none appeared on behalf of the assessee. However, the documents and facts were perused with the help of Ld. DR and it became evident that the assessee has suffered due to lack of persuasion of his matters before the authorities below. Admittedly, the assessee is a State Government Corporation and is seen to have attempted to present his case through some written submissions only. Needless to say, the assessee has suffered because he did not respond adequately to the notices issued fixing the dates for hearing before the Ld. CIT(A). In light of these facts, we deem it fit to remand both the matters back to the file of Ld. CIT(A) for fresh adjudication. The assessee would do well to be alert in pursuing his matters before the First Appellate Authority. We are accordingly remanding both these matters to the file of Ld. CIT(A).

4. In the result, both the appeals preferred by the assessee are allowed for statistical purposes.

Order pronounced in the court on 06.01.2025

Sd/-  
**[Duvvuru RL Reddy]**  
**Vice President**

Sd/-  
**[Sanjay Awasthi]**  
**Accountant Member**

Dated: 06.01.2025  
AK, PS

*Copy of the order forwarded to:*

1. Bihar Medical Services and Infrastructure Corporation Limited
2. Additional/Joint Commissioner of Income Tax,  
National Faceless Assessment Centre, Delhi
3. CIT(A)-
4. CIT-
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches