

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

Raj Kumar.....Appellant

Mohalla – Gudari Bazar,
Bhagwan Bazar, Daulatganj,
Chapra (Saran), Bihar-841301.
[PAN: CIKPK8268A]

vs.

ITO, Ward-2(2), Chapra..... Respondent

Appearances by:

None appeared on behalf of the appellant.

Shri Ashwani Kumar, Sr. DR, appeared on behalf of the Respondent.

Date of concluding the hearing : January 27, 2025

Date of pronouncing the order : January 30, 2025

आदेश / ORDER

Per Sonjoy Sarma, Judicial Member:

The present appeal has been preferred by the assessee against the order dated 15.12.2023 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. No one has appeared on behalf of the assessee in spite of serving consecutive notices of hearing and the Tribunal cannot keep this appeal pending for indefinite time due to non-representation. Therefore, in the absence of any authorised representative of the assessee, we proceed to decide the appeal with the help of ld. DR and also considering the material available on record.

3. Brief facts of the case are that the assessee is an individual and engaged in fish marketing. The assessee deposited a sum of

Rs.25,92,000/- in his bank account during demonetization period for the assessment year 2017-18. However, the assessee failed to file his return of income u/s 139(1) of the Act for the relevant assessment year. Consequently, a notice u/s 142(1) of the Act was issued to the assessee directing to file return and provide necessary details. Despite issuance of repeated notices, no compliance was made and no return was filed. In the absence of any compliance, the Assessing Officer treated the said cash deposits as unexplained income and made addition of Rs.25,92,000/- to the assessee's total income by passing an ex parte assessment order u/s 144 of the Act.

4. Dissatisfied, the assessee preferred appeal before the ld. CIT(A). However, the ld. CIT(A) dismissed the appeal of the assessee by upholding the order of the Assessing Officer as the assessee failed to submit any documentary evidence in support of his claim.

5. Aggrieved by the said order, the assessee filed the present appeal before this Tribunal raising various grounds. However, at the time of hearing, none appeared on behalf of the assessee.

6. The ld. DR supported the decisions rendered by the authorities below.

7. We, after hearing of the ld. DR and reviewing the materials available on record, find that the orders of the lower authorities are ex parte orders without giving the adequate opportunity to present the case by the assessee. We note that the ld. CIT(A) dismissed the appeal of the assessee without going into merits and decided only on the ground of non-compliance on the part of the assessee. We, therefore, find that the dismissal of appeal solely on the procedural ground without examining the merits of the case which is essential u/s 250(6) of the Act, is not justified. In the interest of justice and fair play, we deem it fit to provide

the assessee one more opportunity to substantiate his case to ensure just and fair assessment. We, therefore, remand back the issue to the file of the ld. CIT(A) with a direction to re-examine the case on merits after giving reasonable opportunity of being heard to the assessee to represent his case after submitting relevant documents. We also direct the assessee to sincerely comply with the notices issued and duly participate in the remand proceedings to avoid any further delay.

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

Kolkata, the 30th January, 2025.

Sd/-

[Rakesh Mishra]

लेखा सदस्य/Accountant Member

Sd/-

[Sonjoy Sarma]

न्यायिक सदस्य/Judicial Member

Dated: 30.01.2025.

RS

Copy of the order forwarded to:

1. Raj Kumar
2. ITO, Ward-2(2), Chapra
3. CIT (A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches