

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.422/Pat/2024
Assessment Year: 2011-12

Rajendra Agrawal.....Appellant

New Sipahi Tola, Maranga Road,
Bihar – 85301.

[PAN: AQHPA2439E]

vs.

ITO, Ward-3(1), Purnia..... 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 29.02.2024 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. At the outset, the Registry has informed that there is a delay of 18 days in filing the present appeal. The assessee filed an application for condonation of delay stating reasons for such delay. After considering the application, we find reasonable cause which was beyond the control of the assessee and the delay was not intentional. We, therefore, condone the delay in filing the appeal and adjudicate the appeal on merits of the case.

3. Brief facts of the case are that the assessee is an individual and is engaged in farming activities. The case of the assessee was reopened

u/s 147 of the Act for the assessment year 2011-12. The assessee filed his return electronically declaring Rs.44,590/- as income from other sources and Rs.7,94,275/- as agricultural income. The case of the assessee was selected for complete scrutiny and notices u/s 143(2) and 142(1) were issued thereon. During the assessment proceedings, the assessee was asked to provide proof of agricultural activity including proof of agricultural land, copy of land revenue receipt, detail of cultivation, irrigation labour charges, vouchers of purchase of seeds and pesticides, details of agricultural produce sold, proof of receipt from sale proceeds etc. The Assessing Officer also issued notice u/s 133(6) of the Act to circle officer in order to collect additional information about the agricultural land. In response, the assessee submitted land revenue receipt, land ownership certificate etc. but the assessee failed to furnish details of invoices or bills for fertilizers, pesticides and sale proceeds from agricultural produce. Due to lack of supporting documents and non-availability of comprehensive details, the Assessing Officer disallowed 25% of the claimed agricultural income of Rs.7,94,275/- i.e. Rs.1,98,569/- and added it back to the total income of the assessee by assessing total income of the assessee at Rs.2,43,160/-.

4. Dissatisfied with the above order, the assessee preferred an appeal before the ld. CIT(A) against the assessment order u/s 143(3) r.w.s. 147 of the Act challenging the validity of the assessment order. The ld. CIT(A) noted that the assessment order u/s 143(3) r.w.s. 147 of the Act was passed on 30.10.2018 and the order was served upon the assessee on 12.11.2018 and the appeal filed before him on 22.09.2019. He further noted that as per section 249(2)(c) of the Act, the appeal was required to file within 30 days and now the appeal contained a delay of about 180 days which is beyond the prescribed limited u/s 249(2) of the Act. Thereafter, the ld. CIT(A) dismissed the appeal of the assessee

solely on technical ground of delay in filing the appeal and did not consider the merit of the case.

5. Aggrieved by the above order, the assessee approached this Tribunal arguing that the ld. CIT(A) erred in dismissing the appeal solely on the basis of delay in filing the appeal before him without adjudicating the merits of the case. 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.

6. On the other hand, the ld. DR supported the decisions rendered by the authorities below.

7. We, after hearing the ld. DR and perusing the materials available on record, find that there was substantial delay of about 6 months (180 days) in filing the appeal before the ld. CIT(A). However, we find that the opportunity of justice cannot be sacrificed at the alter of the technicalities. We further find that the assessee through his grounds of appeal stated that the reason for the delay in filing the appeal before the ld. CIT(A) was due to bedrest of the assessee and medical prescription in this regard was submitted which is on record. We find that the delay in filing the appeal was neither wilful nor attributable to any extraneous or ulterior motive on the part of the assessee and the assessee was not benefitted in any way from delayed filing of this appeal. However, the ld. CIT(A) dismissed the appeal of the assessee solely on technical ground of delay in filing the appeal and did not consider the merit of the case. We note that as per Article 265 of the Constitution of India emphasises that no tax can be levied and collected except by authority of law, however, denial of hearing on merit of the case only on the ground of

delay is not proper. We note that it is well-settled principle that justice should prevail over procedural lapses especially when a party shows genuine intention to rectify its error. We also find that the order of the Id. CIT(A) was passed without addressing the merit of the case which is contrary to the mandate of section 250(6) of the Act. In view of our above discussion, we condone the delay of 6 months (about 180 days) in filing the present appeal before the Id. CIT(A). We, therefore, deem it fit to remand the matter back to the file of the Id. CIT(A) with a direction to re-examine the issue on merits after providing reasonable opportunity to the assessee of being heard and due consideration of facts and submissions made before him while passing a fresh order.

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. Rajendra Agrawal
2. ITO, Ward-3(1), Purnia
3. CIT (A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches