

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.374/Pat/2024
Assessment Year: 2013-14

Shiv Nandan Prasad Suman.....Appellant

Laukaha, Madhubani,
Bihar-847421.

[PAN: AITPS3598Q]

vs.

ITO, Ward-6(1), Patna..... Respondent

Appearances by:

Shri Mayank Manvendra, Advocate appeared on behalf of the appellant.

Shri Ashwani Kumar, JCIT, appeared on behalf of the Respondent.

Date of concluding the hearing : January 28, 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 23.02.2024 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. Brief facts of the case are that the assessee is an individual. The assessment order was framed in the case of the assessee u/s 147 r.w.s 144B of the Act as the assessee failed to file return of income for assessment year 2013-14 within the prescribed limit. The Assessing Officer determined total income of the assessee at Rs.20,24,948/- by making certain additions in respect of unexplained investment of Rs.1445000/- u/s 69 of the Act, salary income of Rs.576492/- and interest income of Rs.3456/-.

3. Dissatisfied, the assessee preferred appeal before the ld. CIT(A). However, the ld. CIT(A) dismissed the appeal of the assessee by observing that as per section 249(4)(b) of the Act where no return has been filed by the assessee, the assessee was liable to pay an amount equal to the amount of advance tax. He also stated that the assessee did not file application as per the proviso to section 249(4) seeking exemption from operation of provisions of section 249(4)(b) of the Act. Accordingly, the ld. CIT(A) dismissed the appeal of the assessee on technical ground without going into merits of the case.

4. Aggrieved by the said order, the assessee filed the present appeal before this Tribunal. He argued that the aforesaid additions made by the Assessing Officer was contrary to the provisions of law and there was no actual tax liability as determined by the Assessing Officer. He also claimed that the assessee had no advance tax liability as alleged by the ld. CIT(A) in his order. He prayed before us that one more opportunity may be given to decide the issue on merits after producing supporting documents in support of his claim.

5. On the other hand, the ld. DR supported the decisions of the authorities below.

6. We, after considering the rival submissions and reviewing the documents available on record, find that the ld. CIT(A) has not properly considered the documents filed by the assessee and dismissed the appeal of the assessee solely on the ground of payment of advance tax without entering into merits of the case. We, therefore, in the interest of natural justice and fair play, deem it necessary to provide the assessee with an opportunity to submit required/relevant documents to substantiate his claim before the ld. CIT(A). Accordingly, we remand the issue to the file of the ld. CIT(A) for fresh adjudication. The assessee is directed to file necessary application before the ld. CIT(A) in order to

explain reasons for non-payment of advance tax if and when it is necessary. The ld. CIT(A) is also directed to re-examine the submissions and documents of the assessee and pass a fresh order in accordance with law.

7. 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. Shiv Nandan Prasad Suman
2. ITO, Ward-6(1), Patna
3. CIT (A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches