

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. Nos.673&674/Pat/2024
Assessment Years: 2015-16 & 2016-17

Bhim Sah.....Appellant
Kumhar Toli, Near Mahavir,
Kankerbagh Main Road,
Patna, Bihar- 800020.
[PAN: AMHPS2682M]

vs.

ITO, Ward-4(2), Patna.....Respondent

Appearances by:

Shri Shailendra Sinha, AR, appeared on behalf of the appellant.

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

Date of concluding the hearing : January 29, 2025

Date of pronouncing the order : January 31, 2025

ORDER

Per Sonjoy Sarma, Judicial Member:

The present appeals have been preferred by the assessee against separate orders both dated 07.02.2024 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’) for assessment years 2015-16 & 2016-17 respectively. Since, the issues involved in both the appeals are common and relate to the same assessee, therefore, these appeals have been heard together and are being disposed of by this consolidated order.

2. At the outset, the ld. AR submitted that there is a delay of 232 days in filing both the appeals. The assessee has filed applications for condonation of delay citing valid and proper reasons. After considering the averments made in the applications, we condone the delay in both the appeals.

3. First, we take up the issue in respect of ITA No.673/Pat/2022 for assessment year 2015-16. Brief facts of the case are that in the case of

the assessee, information was received from DDIT (Inv.), Unit-II, Patna stating that the assessee had made cash payment of Rs.24 lakh in cash to Sri Shivjee Kumar towards payment of loan during the F.Y 2014-15. Since, the assessee had not filed return of income for assessment year 2015-16, the source and nature of the repayment of loan could not be verified. Consequently, the Assessing Officer believed that the income chargeable to tax had escaped assessment u/s 147 of the Act. Notice u/s 148 of the Act was issued to the assessee but the assessee did not able to file return of income in response. Further, notice u/s 142(1) of the Act was issued but the assessee failed to furnish the necessary documents and provide any explanation for the repayment of loan. Due to non-compliance, the Assessing Officer treated the entire amount of Rs.24 lakh as unexplained income u/s 69A of the Act and completed the assessment u/s 144/147 of the Act.

4. Dissatisfied with the above order, the assessee preferred an appeal before the ld. CIT(A) against the assessment order. The ld. CIT(A) dismissed the appeal on the ground that the assessee failed to appear and submit supporting document. Consequently, the ld. CIT(A) upheld the order of the Assessing Officer.

5. Aggrieved by the order of the ld. CIT(A), the assessee filed the appeal before this Tribunal raising multiple grounds. However, the main contention of the ld. AR is that both the order of the Assessing Officer and of the ld. CIT(A) are ex parte orders without adjudicating the merit of the case, which is a violation of principles of natural justice and fair play and the appellate order was passed without giving the assessee a fair opportunity to present its case by submitting supporting documents to substantiate the claim of the assessee. He, therefore, prayed before the Bench that it is necessary to remand the issue back to the file of the Assessing Officer with a direction to decide the appeal on merit.

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

7. We, after hearing the submissions of the parties and perusing the materials available on record, find that that both the orders of the Assessing Officer and of the ld. CIT(A) passed ex parte since no compliance was made on the part of the assessee. We also find that the order of the ld. CIT(A) was passed without addressing the merit of the case which is contrary to the mandate of section 250(6) of the Act. We, therefore, deem it fit to remand the matter back to the file of the Assessing Officer with a direction to re-examine the issue on merits after providing reasonable opportunity to the assessee of being heard to submit all the relevant details or documents to substantiate the claim of the assessee. We also emphasise that the assessee must fully cooperate by responding all notices and due compliance will made during the remand proceedings.

8. Since the facts and issues involved in both these appeals are identical except difference in figures, therefore, our findings/directions given above in ITA No.673/Pat/2024 will mutatis mutandis apply to ITA No.674/Pat/2024. Hence, ITA No. 674/Pat/2024 is also allowed for statistical purposes.

9. In terms of the above, both the appeals of the assessee are allowed for statistical purposes.

Kolkata, the 31st January, 2025.

Sd/-

[Rakesh Mishra]

लेखा सदस्य/Accountant Member

Sd/-

[Sonjoy Sarma]

न्यायिक सदस्य/Judicial Member

Dated: 31.01.2025.

RS

Copy of the order forwarded to:

1. Bhim Sah
2. ITO, Ward-4(2), Patna
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches