

**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.431/Pat/2024**  
Assessment Year: 2001-02

**Vandna Gandhi.....Appellant**

W/o Sri Azad Gandhi  
Kila Road, Patna City,  
Patna- 800008.

**[PAN: AINPG4871E]**

**vs.**

**ACIT, Circle-5, Patna..... Respondent**

**Appearances by:**

Shri Mahindra Chowdhary, Advocate appeared on behalf of the appellant.  
Shri Ashwani Kumar, Sr. DR, appeared on behalf of the Respondent.

Date of concluding the hearing : January 30, 2025

Date of pronouncing the order : January 31, 2025

**आदेश / ORDER**

**Per Sonjoy Sarma, Judicial Member:**

The present appeal has been preferred by the assessee against the order dated 22.05.2023 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. Brief facts of the case are that the assessee was partner in the firm namely M/s Raj Construction with 5.43% share. At the time of firm’s assessment for the assessment year 2001-02, it was noted that the capital introduced by the assessee was Rs.5,00,000/-. This was the first year of the firm’s existence since the source of the capital introduced was not properly explained, therefore, the Assessing Officer treated the same as unexplained income of the firm u/s 68 of the Act. Based on the information, the reassessment proceedings were initiated

u/s 147 of the Act by issuing a notice u/s 148 to the assessee followed by notice u/s 142(1) of the Act. However, the assessee did not comply to the notices issued. Due to non-compliance, the Assessing Officer treated the capital introduced of Rs.5,00,000/- as unexplained income u/s 68 of the and the income of the assessee was enhanced.

3. Dissatisfied with the above order, the assessee preferred an appeal before the ld. CIT(A). Despite receiving three consecutive notices, the assessee failed to appear or present his case. The appeal of the assessee was dismissed due to non-prosecution by simply upholding the order of the Assessing Officer.

4. Aggrieved, the assessee filed an appeal before this Tribunal raising various grounds. However, the primary contention of the assessee is that the order passed by the ld. CIT(A) was ex parte order without providing proper opportunity to the assessee to present her case. The ld. AR, therefore, requested before the Tribunal to provide another opportunity to substantiate her claim and has assured full compliance to the notices that will be issued by the authorities below.

5. On the other hand, the ld. DR objected to such prayer made by the assessee stating that sufficient opportunities were given to the assessee, however, the assessee failed to avail those opportunities. Therefore, at this stage, the appeal of the assessee may be dismissed.

6. We, after hearing both the parties 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. In the interest of justice and fair play, we deem it fit to provide the assessee one more opportunity to substantiate her case to ensure just and fair assessment.

We, therefore, remand back the issue to the file of the Assessing Officer with a direction to re-examine the case on merits after giving reasonable opportunity of being heard to the assessee to represent her 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.

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

***Kolkata, the 31<sup>st</sup> 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. Vandna Gandhi
2. ACIT, Circle-5, Patna
3. CIT (A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches