

**IN THE INCOME TAX APPELLATE TRIBUNAL,
KOLKATA-PATNA 'e-COURT', KOLKATA
[Hybrid Court Hearing]**

Before Shri Duvvuru RL Reddy, Vice-President (KZ)

**I.T.A. No. 284/PAT/2024
Assessment Year: 2017-2018**

***Chandan Kumar,.....Appellant
S/o. Shri Akleshwar Singh Narhan,
Bibhutipur, Samastipur-848211, Bihar
[PAN: DLRPK6040R]***

-Vs.-

***Income Tax Officer,.....Respondent
Ward-3(4), Samastipur***

Appearances by:

*Shri A.K. Rastogi, Advocate, appeared on behalf of the
assessee*

*Shri Ashwani Kr. Singal, JCIT, appeared on behalf of
the Revenue*

**Date of concluding the hearing: December 05, 2024
Date of pronouncing the order: January 31, 2025**

ORDER

The present appeal is directed at the instance of assessee against the order of ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 13th December, 2023 passed for Assessment Year 2017-18.

2. Brief facts of the case are that the assessee is an individual, who derives income from hotel business. The assessee filed his return of income declaring total income at Rs.4,13,685/-. The return was selected for scrutiny under CASS and notice under section 143(2) was issued on 9th August, 2018 and served on the assessee. Subsequently notice under section 142(1) was issued on 20th December, 2018 along with questionnaire and duly served upon the assessee. The assessee failed to comply with the return. Due to non-compliance by the assessee, the ld. Assessing Officer has left with no alternative but to assess the income of assessee on the basis of information/data available on the records and the assessment was completed under section 143(3) assessing the total income at Rs.30,30,370/-. On being aggrieved, the assessee preferred an appeal before the ld. CIT(Appeals).

3. The ld. CIT(Appeals) has given several opportunities to the assessee to substantiate his claim, but the appellant did not file the written submissions and did not represent the case before the ld. CIT(Appeals). Thereafter the ld. CIT(Appeals) dismissed the appeal on 13th December, 2023.

4. On being aggrieved, the assessee preferred an appeal before the ITAT.

5. At the time of hearing, it was the submission of the ld. Counsel for the assessee that ld. CIT(Appeals) did not consider the case on merit, rather he just upheld the order passed by the ld. Assessing Officer. Therefore, he pleaded to delete the addition

made by the ld. Assessing Officer as confirmed by the ld. CIT(Appeals).

6. At the outset, ld. D.R. brought to my notice that the assessee did not produce the relevant documents as asked by the ld. Assessing Officer during the assessment proceedings. Therefore, the ld. Assessing Officer passed the assessment order assessing the taxable income at Rs.30,30,370/-. Thereafter the assessee preferred an appeal before the ld. CIT(Appeals). The ld. CIT(Appeals) has given many opportunities to the assessee and the assessee neither filed written submission nor any evidence before the ld. CIT(Appeals). He further submitted that before the ITAT, the assessee did not substantiate his claim. Therefore, he pleaded to uphold the orders passed by the revenue authorities.

7. I have heard the rival submissions and perused the material available on record. Considering the facts and circumstances of the case, I am inclined to set aside the order passed by the ld. CIT(Appeals) in order to meet the principle of natural justice, and remit the matter back to the file of ld. CIT(Appeals) with a direction to provide one more opportunity of being heard to the assessee. At the same breath, I also hereby caution the assessee to promptly co-operate with the proceedings before the Ld. CIT(Appeals) failing which the Ld. CIT(Appeals) shall be at liberty to pass appropriate order in accordance with law and merits based on the materials available on the record. Thus, the grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open Court on 31/01/2025.

Sd/-
(Duvvuru RL Reddy)
Vice-President (KZ)

Kolkata, the 31st day of January, 2025

- Copies to :*(1) Chandan Kumar,
S/o. Shri Akleshwar Singh Narhan,
Bibhutipur, Samastipur-848211, Bihar
- (2) *Income Tax Officer,*
Ward-3(4), Samastipur;
- (3) *CIT(Appeals), NFAC, Delhi*
(4) *CIT - ;*
(5) *The Departmental Representative;*
(6) *Guard File*

TRUE COPY

By order

Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata

Laha/Sr. P.S.