

**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. 410/PAT/2024
Assessment Year: 2017-2018**

***Rakesh Kumar Singh,.....Appellant
Ram Dulari Singh Path,
Mehsaul, Sitamarhi-843302, Bihar
[PAN:AQTPS5327B]***

-Vs.-

***Income Tax Officer,.....Respondent
Ward-2(5), Sitamarhi,
Bihar***

Appearances by:

*Shri Sanjeev Kumar Anwar, Advocate, appeared on behalf
of the assessee*

*Shri Ajay Kr. Shukla, JCIT, Sr. D.R., appeared on behalf
of the Revenue*

**Date of concluding the hearing: December 26, 2024
Date of pronouncing the order: January 31, 2025**

O R D E R

The present appeal is directed at the instance of assessee against the order of Id. Addl./JCIT(Appeals), Thane dated 21st March, 2024 passed for Assessment Year 2017-18.

2. Brief facts of the case are that the assessee is an individual, who derives income from Bagmati HP Gas Agency on retail trade of LPG Gas Cylinder and other LPG products. The assessee filed

his return of income declaring total income at Rs.3,84,680/-. As per ITS report of ITBA, the assessee deposited Rs.11,17,500/- in cash in his Bank account of Canara Bank, bearing Account No. 2312285000642 during the demonetization period. A notice under section 148 of the Act was issued and the same was served upon the assessee. But the assessee did not respond to the notice. Thereafter ld. Assessing Officer issued notices under section 143(2) and 142(1) alongwith questionnaire and duly served on the assessee. The assessee could not offer explanation about the nature and source of deposits made in his bank account. Hence, the ld. Assessing Officer treated the value of deposits of Rs.2,64,500/- as unexplained money under section 69A of the Act and added to the total income of the assessee. Consequently, the ld. Assessing Officer passed the assessment order under section 143(3)/147 of the Act by making an addition of Rs.6,49,180/-.

3. On being aggrieved, the assessee preferred an appeal before the ld. CIT(Appeals). The assessee did not submit documents in support of his claim inspite of providing multiple opportunities to the assessee. Thereafter the ld. Commissioner (Appeals) had no other option except passing the order on merits based on the material available on record. The ld. CIT(Appeals) dismissed the appeal filed by the assessee confirming the addition made by the ld. Assessing Officer.

4. On being aggrieved, the assessee preferred an appeal before the ITAT. It was the submission of the assessee that ld. CIT(Appeals) did not consider his case on merit and just upheld

the order passed by the ld. Assessing Officer. He pleaded to delete the addition made by the ld. Assessing Officer as confirmed by the ld. CIT(Appeals).

5. On the other hand, ld. D.R. brought to our notice that the assessee did not participate during the assessment proceedings. Therefore, the ld. Assessing Officer passed the assessment order under section 143(3) read with section 147 of the Act. 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, inspite of service of notice, the assessee did not turn up to substantiate his case before the Tribunal. Therefore, he pleaded to uphold the orders passed by the revenue authorities.

6. I have heard both the sides 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.

7. 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) Rakesh Kumar Singh,
Ram Dulari Singh Path,
Mehsaal, Sitamarhi-843302, Bihar*

*(2) Income Tax Officer,
Ward-2(5), Sitamarhi, Bihar;*

(3) Addl./JCIT(Appeals), Thane;

(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.