

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

**Before Shri Duvvuru RL Reddy, Vice-President (KZ)
&
Shri Rajesh Kumar, Accountant Member**

**I.T.A. No. 328/PAT/2023
Assessment Year: 2017-2018**

***Unik Surgical Pvt. Limited,.....Appellant
Building No. 2C/159, G.D. Mishra Path,
New Pataliputra Colony, Bihar-800013
[PAN: AABCU0970B]***

-Vs.-

***Deputy Commissioner
/Assistant Commissioner,.....Respondent
Circle-1, Patna***

Appearances by:

*Shri Shivansh Tulsian, A.R., 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**

O R D E R

Per Duvvuru RL Reddy, Vice-President (KZ):-

The present appeal is directed at the instance of assessee against the order of Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 21st September, 2023 passed for Assessment Year 2017-18.

2. Brief facts of the case are that the assessee is a Private Limited Company, which filed its return of income electronically declaring total income at Rs.23,60,940/-. The return was selected for complete scrutiny under CASS and notice under section 143(2) was issued and served on the assessee. In spite of service of notice, no compliance was made from the side of assessee. Thereafter a show-cause notice was issued to the assessee stating that if the assessee fails to make compliance of the notice, it will be presumed that the assessee has nothing to say in this regard and ex-parte order will be passed on the basis of material available on record. The assessee failed to give any explanation about the nature and source of cash deposits to the tune of Rs.78,50,000/- during the time of demonetization period maintained with Corporation Bank and deposit to the tune of Rs.28,22,000/- maintained with United Bank of India. Therefore, the ld. Assessing Office treated the aggregated amount of Rs.1,06,72,000/- as unexplained money under section 69A and added the same to the total income of the assessee. 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 21st September, 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) passed an ex-parte order by upholding 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.1,06,72,000/-. 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 its claim. Therefore, he pleaded to uphold the orders passed by the revenue authorities.

7. We have heard the rival submissions and perused the material available on record. Considering the facts and circumstances of the case, we are 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, we 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/-
(Rajesh Kumar)
Accountant Member

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

Kolkata, the 31st day of January, 2025

*Copies to :(1) Unik Surgical Pvt. Limited,
Building No. 2C/159, G.D. Mishra Path,
New Pataliputra Colony, Bihar-800013*

*(2) Deputy Commissioner
/Assistant Commissioner, Circle-1, Patna*

(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.