

**IN THE INCOME TAX APPELLATE TRIBUNAL, RANCHI BENCH(SMC),
RANCHI**

BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER

ITA No. 24/Ran/2024 (Assessment Year 2017-18)

Vijay Kumar Sharma, Flat No. 506, Scholar Tower, Pragati Path, Near Oxford School, Chutia, Ranchi-834001 (Jharkhand) PAN No. DWLPS 3841 D	Vs.	I.T.O., Ward-3(2), Ranchi.
Appellant/ Assessee		Respondent/ Revenue

Assessee represented by	Smt. Sarita Kumari, A.R.
Department represented by	Shri Khubchand T. Pandya, Sr.DR
Date of hearing	08/01/2025
Date of pronouncement	06/02/2025

ORDER

PER: PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER:

1. This appeal preferred by the assessee emanates from the order of National Faceless Appeal Centre, Delhi (NFAC)/learned Commissioner of Income Tax (Appeals) [in short, the Id. CIT(A)] dated 26/07/2023 for the Assessment Year (AY) 2017-18 as per the grounds of appeal on record.
2. Rival submissions of both the parties have been heard and record perused. At the outset of hearing, the learned Authorised Representative (Id. AR) of the assessee submits that the Id. CIT(A) has not given fair and reasonable opportunity to the assessee. Assessment was completed on 17/10/2019 under Section 143(3) of the Income Tax Act, 1961 (in short, the Act). The Assessing Officer while passing the assessment order, made addition under Section 69A of the Act. The Id. CIT(A) confirmed the addition made by the Assessing Officer in ex parte order. The Id. AR of the assessee submits that the assessment was

completed in October, 2019 and the assessee filed appeal before the Id. CIT(A) in December, 2019. The Id. AR of the assessee submits that the assessee has good case on merit and is likely to succeed if one more opportunity is provided. The Id. AR of the assessee submits that she states on behalf of assessee to be more vigilant in future in making compliance.

3. On the other hand, the learned Senior Departmental Representative (Id. Sr. DR) for the revenue supported the orders of the revenue authorities.
4. I have given careful consideration to the relevant documents on record and the submissions of the both the parties. It is observed that total five opportunities were given to the assessee by the Id. CIT(A), however, no compliance was made and it was submitted by the Id. AR of the assessee that at the time of hearing that during the relevant time, the business of assessee had stopped since demonetization. There was no professional assistance which the assessee could hire due to lack of finances and therefore, the notices of hearing from the office of Id. CIT(A) went unnoticed and in effect unserved. Therefore, the rights and liabilities of the parties herein have not been adjudicated substantially. It is correct that reasonable opportunities have been provided to the assessee, still, there was no compliance. The facts remain that the income tax laws are within the ambit of welfare legislation which are absolutely separate from penal legislation and therefore, given the facts and circumstances and as per applicable law, benefit of doubt has to be attributed to the assessee/tax payer. There may be circumstances beyond the control of assessee or "vis major" because of which the assessee may not have able to comply with the notices before the NFAC/Id. CIT(A). Under the given facts on

record, which cannot be said that such non-compliance was deliberate or malafide on the part of assessee. Therefore, in the interest of principles of natural justice, I am inclined to provide one final opportunity to the assessee and accordingly the order of NFAC/ld.CIT(A) is set aside and the matter is remanded back to its file for de novo adjudication and the assessee is also directed that this being the final opportunity, he should file all the relevant documents before NFAC/ld. CIT(A) and represent his case on merits. As per the above terms, the grounds of appeal raised by the assessee stands allowed for statistical purposes only.

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

Order announced in open court on 06th February, 2025.

Sd/-
(PARTHA SARATHI CHAUDHURY)
JUDICIAL MEMBER

Ranchi, Dated: 06/02/2025

**Ranjan*

Copy to:

1. Assessee
2. Revenue
3. CIT
4. DR
5. Guard File

By order

Sr. Private Secretary, ITAT, Ranchi