

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

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

**I.T.A. Nos. 355 & 356/PAT/2023
Assessment Year: 2017-2018**

**Siddhi Gupta,.....Appellant
S/o. Gopal Prasad Gupta,
Masjid Road, Near Rath, Durga Chowk, Obra,
Aurangabad-824101, Bihar
[PAN:AUFPS5370G]**

-Vs.-

**Income Tax Officer,.....Respondent
Ward-3(3), Aurangabad,
Near Block More, Aurangabad-824101,
Bihar**

Appearances by:

Shri K.N. Prasad, Advocate, appeared on behalf of the assessee

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

Date of concluding the hearing: January 02, 2025

Date of pronouncing the order: February 13, 2025

O R D E R

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

The present appeals bearing ITA Nos. 355/PAT/2023 and 356/PAT/2023 are directed at the instance of assessee against the order of Id. Commissioner of Income Tax (Appeals), National

Faceless Appeal Centre (NFAC), Delhi dated 18th September, 2023 passed for Assessment Year 2017-18.

2. The appeals bearing ITA Nos. 355/PAT/2023 & 356/PAT/2023 are time barred by 31 days and 206 days respectively in filing the appeals by the assessee. However, the assessee filed condonation petitions both dated 28th December, 2024 saying that the assessee is not aware of the order passed by the Id. CIT(Appeals) and due to non-communication of notices/order, there was a delay of 31 days and 206 days respectively in filing the appeals before the Tribunal. Therefore, he pleaded to condone the delay in both the appeals.

3. Considering the facts and circumstances of the case, we are inclined to condone the delay in both the appeals since the delay is not due to negligence on the part of assessee and the assessee has established sufficient cause to condone the delay. Hence the delay is condoned in both the appeals.

4. Brief facts of the case are that the assessee is an individual, who earns income from trading of food grains. The assessee did not file his return of income for A.Y. 2017-18 and was supposed to file his return on due date. During the course of demonetization, the assessee deposited Rs.12,44,000/- as cash into his bank account. Since the assessee had not file the return of income, notice under section 142(1) was issued as per SOP in respect of data of cash deposit in Bank pushed by Directorate of Systems under 'Operation Clean Money' for filing the ITR for the year under

consideration till 31.03.2018. But the assessee failed to file the return within stipulated time. Later on, assessee filed his return of income on 24.09.2019 vide e-filing Acknowledgment No. 172831540240919 at Rs.3,08,600/- and declared turnover of Rs.41,24,580/-. The assessee was issued notice under section 142(1) on 18.01.2019 alongwith questionnaire and was required to upload his reply on or before 04.02.2019 but the assessee did not respond to the notice. Notice under section 143(2) of the Act was issued on 17.09.2019 for compliance on 25.09.2019 but the assessee has not filed his return of income. During the course of assessment proceedings, on the basis of AIR information, notice under section 133(6) of the Income Tax Act was issued to the Branch Manager, State Bank of India, Obra dated 24.09.2019 and 22.08.2019 called for account opening form, bank account statement for FY 2014-15 to 2016-17, KYC details of cash deposits, details of cash deposits made during demonetization period, money trail, credit entries, debit entries, etc. In response to notice, the Bank provided the requisite details. 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)/147 assessing the total income at Rs.35,07,040/-. On being aggrieved, the assessee preferred appeals before the ld. CIT(Appeals).

5. 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 appeals bearing ITA No. 355/PAT/2023 and 356/PAT/2023 on 18th September, 2023 and 27th March, 2023 respectively.

6. On being aggrieved, the assessee preferred appeals before the ITAT.

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

8. 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.35,07,040/-. Thereafter the assessee preferred appeals 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.

9. 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 orders 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 in both the appeals are allowed for statistical purposes.

10. In the result, both the appeals of the assessee are allowed for statistical purposes.

Order pronounced in the open Court on 13/02/2025.

Sd/-
(Sanjay Awasthi)
Accountant Member

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

Kolkata, the 13th day of February, 2025

*Copies to :(1) Siddhi Gupta,
S/o. Gopal Prasad Gupta,
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*(2) Income Tax Officer,
Ward-3(3), Aurangabad,
Near Block More, Aurangabad-824101,
Bihar*

- (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.