

**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. 84/PAT/2023  
Assessment Year: 2009-2010**

***Bal Krishna Tibrewal,.....Appellant  
Chatt Dham, Flat No. 303,  
Near Telephone Exchange,  
Rajendra Nagar, Patna-800016, Bihar  
[PAN:ABYPT8025H]***

**-Vs.-**

***Assistant Commissioner of Income Tax,...Respondent  
Circle-4, Patna***

**Appearances by:**

*Shri Rakesh Kumar, Advocate, appeared on behalf of the  
assessee*

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

**Date of concluding the hearing: December 11, 2025  
Date of pronouncing the order: February 24, 2025**

**O R D E R**

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 23<sup>rd</sup> March, 2023 passed for Assessment Year 2009-10.

2. Brief facts of the case are that the assessee is an individual, who filed his return of income declaring total income at

Rs.11,95,810/-. The case was selected for scrutiny under section 143(3) of the Income Tax Act, 1961 through CASS. Assessment order under section 143(3) was passed on 25.10.2011 accepting the return of income of the assessee for assessment year 2009-10. On perusal of the assessment records, it is seen that as per balance sheet, the total amount of Rs.7,72,624/- was not taken in the receipt of profit & loss account since accounts were prepared on mercantile basis, therefore, income of the previous year, i.e. 7,72,624/- which is receivable should have been taken in the accounts as income of the previous year, as such the amount is required to be added to the total income of the assessee. Accordingly, Assessing Officer rectified the income of the assessee and tax thereon under section 143(3)/154 assessing the net tax payable at Rs.5,10,265/-. 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) passed ex-parte order dismissing the appeal of the assessee on 23<sup>rd</sup> March, 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. It was the submission of the assessee that the assessee filed his written submission before the ld. CIT(Appeals), but the ld. CIT(Appeals) without considered the written submission filed by the assessee and dismissed the assessee *ex-parte*. 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.5,10,265/-. 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 both the sides and perused the material available on record. It is an admitted fact that the assessee filed written submission before the ld. CIT(Appeals) but he has not considered and dismissed the assessment *ex-parte*. 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 24/02/2025.

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

**Kolkata, the 24<sup>th</sup> day of February, 2025**

*Copies to :(1) Bal Krishna Tibrewal,  
Chatt Dham, Flat No. 303,  
Near Telephone Exchange,  
Rajendra Nagar, Patna-800016, Bihar*

*(2) Assistant Commissioner of Income Tax,  
Circle-4, 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.**