

**IN THE INCOME TAX APPELLATE TRIBUNAL PATNA BENCH
VIRTUAL HEARING AT KOLKATA**

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER
AND SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER**

**ITA No. 42/PAT/2025
Assessment Year: 2018-19**

Keshaw Kumar Gupta Prop. M/s. Shilpee Jewellers Bakarganj, Patna-800004. (PAN: ADKPG3879J)	Vs	DCIT, Central Circle-3, Patna.
(Appellant)		(Respondent)

Present for:

Appellant by : Shri Manish Rastogi, Advocate
Respondent by : Shri Ashwani Kr. Singal, JCIT

Date of Hearing : 25.02.2025
Date of Pronouncement : 25.02.2025

ORDER

Per Bench :

This is an appeal filed by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals), Patna-3 [hereinafter referred to as "the Ld. CIT(A)"] vide order no. ITBA/APL/S/250/2024-25/1070782194(1) dated 30.11.2024 passed u/s. 250 of the Income Tax Act, 1961 (hereinafter referred to as "the Act") for AY 2018-19.

2. Shri Manish Rastogi, Advocate appeared on behalf of the assessee and Shri Ashwani Kr. Singal, JCIT appeared on behalf of the revenue.

3. The Ld. CIT(A) confirmed the assessment order passed by the Assessing Officer u/s. 143(3) of the Act at an income of Rs.7,95,74,967/- against the returned income of Rs. 7,17,08,170/- thereby making an addition of Rs. 78,66,797/- on account of unexplained investment in

stock. Vide ground no. 5 the assessee also stated that the order of the Ld. CIT(A) is an ex parte order without allowing proper opportunity of being heard. From perusal of the order of the ld. CIT(A), we find that though the Ld. CIT(A) provided sufficient opportunity of hearing to the assessee but there was no response on behalf of the assessee. The Ld. CIT(A), therefore, passed the ex parte order. At the time of hearing before us, the Ld. Counsel for the assessee prayed before the Bench to set aside the orders of both the authorities below and restore the appeal to the file of the Assessing Officer to de novo adjudicate the issue. Ld. Sr. DR opposed this prayer of the assessee.

4. Since the assessee despite being provided with sufficient opportunities of hearing before the Ld. CIT(A) did not present himself in the appellate proceedings, keeping this in mind and also treating this attitude against the principles of natural justice, we are of the view that assessee should be granted one more opportunity. This being so, the issue in this appeal is restored to the file of the Assessing Officer subject to the assessee paying a cost of Rs.10,000/- to the Bihar Income Tax Bar Association within sixty days from the date of this order and receipt of the same would be produced before the Assessing Officer. Should the assessee not pay the abovementioned cost of Rs. 10,000/- within the prescribed period of sixty days from the date of this order, the order of the Ld. CIT(A) shall stand confirmed.

5. In the result, the appeal of the assessee is allowed for statistical purpose subject to above directions.

Order pronounced in the open court.

Sd/-
(Sanjay Awasthi)
Accountant Member

Sd/-
(George Mathan)
Judicial Member

Dated: 25th February, 2025

JD, Sr. P.S.

Copy to:

1. The Appellant: Shri Keshaw Kumar Gupta
2. The Respondent. DCIT, Central Circle-3, Patna.
3. CIT(A), Patna-3
4. Pr. CIT
5. DR, ITAT, Patna Bench, Patna
6. Guard file.

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata