

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**GUWAHATI BENCH, GUWAHATI**  
**(VIRTUAL HEARING AT KOLKATA)**

**SHRI MANOMOHAN DAS, JUDICIAL MEMBER**  
**SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER**

**I.T.A. No. 177/GTY/2024**  
**Assessment Year: 2018-19**

**Shri Parindra Reang,**

M/s Brajesh Kukmar Hardware,  
Karbook, Amarpur, South Tripura,  
Tripura - 799104  
[PAN: BEWPR1223R]

.....**Appellant**

**vs.**

**ITO, Ward- Udaipur, Agartala,**

New Town Road, Udaipur,  
PO R.K. Pur, Tripura – 799120

..... **Respondent**

**Appearances by:**

Assessee represented by : None  
Department represented by : Kaushik Ray, JCIT

Date of concluding the hearing : 19.02.2025  
Date of pronouncing the order : 25.02.2025

**ORDER**

**PER SANJAY AWASTHI, ACCOUNTANT MEMBER:**

1. In this case, there is a delay of more than 100 days, in the filing of this appeal. The assessee has filed an affidavit for requesting the condonation of the same, as under:

*AFFIDAVIT*

*“I Sri Parindra Reang S/O Ranajoy Reang, of Address - Pilonjoy Para, P.O. Karbook. P.S. Karbook, Sub-Division- Karbook, District- Gomati Tripura, Tripura aged about 44 years, by faith Hindu and by profession - business do hereby solemnly declare on oath as follows -*

*1. The deponent is a Member of the Tripura Tribal Community and lived in Karbook, Gomati District, Tripura do here declare that he is doing business of Hardwire Item vide*

GSTIN Form GST REG-06, Registration No. 16BEWPR1223RIZO for earning his livelihood

*This true to my Knowledge*

2. That the deponent was assessed by the Ld Income Tax officer assessed an income Tax on the deponents who is exempted from the payment of income Tax as section 10(26) of the IT Act 1961.

*This true to my knowledge.*

3. That the Deponents filled a memo of appeal before the Ld CIT (A) who disposed off the case on 23-02-2024 as per the Portal as response was filled against the Notice issued by his honour and disposed off the Appeal, partially allowing the Appeal filed.

*This is true to my knowledge*

4. That the appellant come to know that the Email in my GST NO was given in the Memo of Appeal filled in No 35 which was the No of my GST Accountant and he did not inform the matter as such the Deponents could not come to know of the whole matter. He however on enquiry come to know from the portal only 27-06-2024 only.

*This true to my knowledge*

5. That the appellant contact his lawyer for filling of the memo of Appeal before the Income Tax Tribunal and started collecting the relevant papers but fell ill as per the medical certificate and advice bad-rest till 13-08-2022.

*This is true to my knowledge,*

6 That the delay of filling of the 2nd Appeal before the Income tax Tribunal of 124 days is not will full and the deponents is not cover sent with the system of Portal and as such he is the victim of the Circumstances only.

*This is true to my knowledge*

7. That the deponents has no bad will at all and prayed for the condo nation of the delay for the admission of the 2nd appeal filled on 20-08-2024 and allow the appeal for the ends of Justice and equity.

*This is true to my knowledge*

*The deponents understand the wording of the affidavit signed this duly in presence of the following witness the on this day of 17 day of August 2024 at Amarpur Court Compound on the date and month and year mentioned as above.”*

1.1 Considering the reasons given in the said petition for condonation, the delay is hereby condoned and the appeal is admitted for adjudication.

2. The present appeal arises from the order passed by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, dated 23.02.2024, passed under Section 250 of the Income Tax Act, 1961 (hereafter 'the Act').

2.1 In this case, the Ld. AO received information that the assessee had earned certain income and also deposited cash in bank accounts. Thereafter, the Ld. AO initiated proceedings u/s 147 of the Act. During the course of proceedings under Section 148A of the Act, the assessee is seen to have informed that he belongs to Scheduled Tribe. However, the AO has recorded that that the assessee did not file any evidence to show that the income had accrued from the specified State only (in this case the State of Tripura), as would be a pre-requisite for consideration u/s 10(26) of the act. Admittedly, the notices given for hearing thereafter were not responded to, leading to an exparte assessment order. Thereafter, the AO proceeded to add an amount of Rs. 1,35,99,509/- u/s 69A of the Act.

2.2 Unfortunately, even before the Ld. CIT(A), the assessee did not respond to as many as six notices issued through ITBA, leading to another exparte order at that stage. Needless to say, the assessee did not get any relief at first appeal stage either.

3. Further aggrieved with the action of Ld. CIT(A), the assessee is in appeal through grounds of appeal which are lengthy and argumentative. However, the same are extracted for reference as under:

*"1 Ground That the Appellant being a member of the Tribal Community, live in Tripura and also doing business in Tripura state, as such his income accrue in Tripura, as per the document submitted which clearly fulfil all the criteria for being illegible for the exemption as per the section 10(26) of the 1 T Act. 1961 which was not considered by the Ld. ACIT judiciously. His income ought not to be formed part of taxable income as specified in the 1 T Act 1961 and wrongly passed Assessment Order by the Ld. A.O. for the payment of Income Tax was not considered by the Ld. ACIT. The same Ld. A.O (NFAC) has accepted the claim of the Appellant in Order u/s 148/144 of the Income Tax Act 1961 for the AY-2019-20. Further in the similar*

*way the claim of the exemption in case of the other assesses under the same jurisdiction has also been accepted. The decision of the Ld ACIT in this regard is also against the decision by the Ld CIT(Appeals) Guwuhati, vide Case No No-CIT 2*

*2. Con. Ground-1, Shillong/ 10106/2019-20 dated 25-11-2019. The acceptance of the appeal partially by reducing the addition made by the Ld A.O. to the extent of @ 8% of the total addition made of Rs. 1,35,99,505/- as taxable income of the Appellant is wrong and not in accordance with the spirit of the provision of the IT Act 1961, as such the order pronounced by the Ld. CIT (Appeals) may kindly be set aside for the ends of justice and ought to allow the exemption u/s 10(26) of the IT.*

*Ground-2, That the decision of the Ld. CIT (Appeal) u/s. section 10(26) of the 1. T. Act, exemption is only available if the assessee who filled his return of income within the time allowed as per section 139 of the IT Act 1961, is hasty and wrong and Ex-party only. The appellant did not receive any communication as alleged in the Appellate order. The matter was also examined by the Ld CIT(Appeal), Guwuhai and the order passed is against the settled principle regarding the exemption allowable to the tribal people of North Eastern States and the appellant is also relied on the decision of the case No.CIT(A) Shillong/ 10106/2019-20 dated 25-11-2019, is enclosed hereto. Thus, the denial of the exemption to the appellant u/s 10(26) of the 1 T Act 1961 is a grave injustice and liable to be vacated for the ends of justice.*

*4 Ground-3, That the assessee craves leave to submit other ground at the time of hearing.”*

3.1 On the last date of hearing, none appeared on behalf of the assessee. However, it was decided to proceed ahead with the adjudication with the help of Ld. Departmental Representative. Along with the appeal, the assessee has also filed an assessment order dated 02.03.2024, passed by the AO for A.Y. 2019-20. In this assessment order, it is seen that the claim of the assessee for relief under Section 10(26) of the Act has been extensively dealt with and accepted. We have also gone through all other documents enclosed with the form of appeal and also the orders of authorities below. The order dated 02.03.2024 for A.Y. 2019-20 in the assessee's own case has considerable persuasive value in terms of establishing the status of the assessee for relief under Section 10(26) of the Act. Be that as it may, the income of a particular year has to still be ascertained regarding its situs in the state of Tripura. Accordingly, we

remand this matter back to the file of Ld. AO to ascertain the facts surrounding the income of the assessee and thereafter computing his taxable income, if any. We direct accordingly.

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

Order pronounced in the court on 25.02.2025

Sd/-  
**[Manomohan Das]**  
**Judicial Member**

Sd/-  
**[Sanjay Awasthi]**  
**Accountant Member**

Dated: 25.02.2025  
AK, PS

*Copy of the order forwarded to:*

1. Shri Parindra Reang
2. ITO, Ward- Udaipur, Agartala
3. CIT(A)-
4. CIT-
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches