

**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. No. 287/PAT/2023
Assessment Year: 2017-2018**

***Lesley Barbara Galstaun,.....Appellant
O, Lesdon Villa,
18, New Patliputra Colony,
Patna-800013, Bihar
[PAN:AAVPG0948A]***

-Vs.-

***Deputy/ Assistant Commissioner of Income
Tax,.....Respondent
Circle-6, Patna***

- A N D -

**I.T.A. No. 288/PAT/2023
Assessment Year: 2017-2018**

***Assistant Commissioner of Income Tax,....,Appellant
Circle-4, Patna,
Lok Nayak Jai Prakash Bhawan,
4th Floor,
Dak Bangalow Crossing, Frazer Road,
Patna-800001, Bihar***

-Vs.-

***Lesley Barbara Galstaun,.....Respondent
Lesdon Villa,
18, New Patliputra Colony,
Patna-800013, Bihar
[PAN:AAVPG0948A]***

Appearances by:

*Shri D.V. Pathy, Advocate, appeared on behalf of the
assessee*

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

Date of concluding the hearing: December 30, 2024

Date of pronouncing the order: February 27, 2025

O R D E R

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

The appeal bearing ITA No. 287/PAT/2023 is directed at the instance of assessee against the order of Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 3rd August, 2023 passed for Assessment Year 2017-18.

The appeal bearing ITA No. 288/PAT/2023 is preferred by the Revenue against the order of Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 3rd August, 2023 for the Assessment Year 2017-18.

2. Brief facts of the cases are that the assessee is a proprietor of St. Karens Montessori School and is engaged in the business of running school. The assessee filed his return of income showing total income of Rs.4,54,47,900/- against which assessment has been completed at a total income of Rs.6,32,71,290/- under section 144 of the Income Tax Act, 1961. The Id. Assessing Officer made various additions under section 69A of the Act for Rs.1,43,73,139/-. Aggrieved by the order of the Id. Assessing

Officer, the assessee preferred an appeal before the ld. CIT(Appeals)

3. After considering the submissions made by the assessee, the ld. CIT(Appeals) partly allowed the appeal of the assessee and also the ld. CIT(Appeals) has not admitted the additional evidences filed by the assessee under Rule 46A of the Income Tax Rules. However, the ld. CIT(Appeals) has considered part of the additional evidences filed by the assessee and partly allowed the appeal of the assessee.

4. On being aggrieved, the Revenue as well as the assessee filed these appeals before the Tribunal.

5. We have heard both the sides. The only contention of the Revenue is that the ld. CIT(Appeals) has not given any opportunity to the ld. Assessing Officer and considered part of the additional evidences filed by the assessee and partly allowed the appeal of the assessee. Therefore, the ld. Departmental Representative pleaded before us that the matter should go back to the file of ld. Assessing Officer to examine the additional evidences filed by the assessee. Apart from this, the ld. Counsel for the assessee also filed an appeal before the ITAT on the ground that the ld. CIT(Appeals) has not admitted certain additional evidences and dismissed the appeal partly. Therefore, he pleaded before us that the matter should go back to the file of ld. Assessing Officer to examine the additional evidences filed by the assessee by providing one more opportunity of being heard to the assessee.

6. We have perused the material available on record. Considering the facts and circumstances of the case, it is an undisputed fact that the ld. CIT(Appeals) failed to call for the remand report from the ld. Assessing Officer and partly allowed the claim of the assessee. Similarly, the ld. CIT(Appeals) also rejected the additional evidences/some documents filed by the assessee saying that the additional evidence is to be admitted only if it falls within the conditions stipulated in Rule 46A of the Income Tax Rules, 1962. Therefore, after considering the facts and circumstances of the case, we are of the view that it is a fit case to set aside the orders passed by the ld. CIT(Appeals) and remit the matters back to the file of ld. Assessing Officer with a direction to examine these issues afresh after providing opportunity of being heard to the assessee. At the same time, the assessee is directed to place all the additional evidences before the ld. Assessing Officer and to cooperative with the proceedings of the Assessing Officer. The grounds raised by the assessee as well as by the Revenue are allowed for statistical purposes.

7. In the result, the appeal filed by the assessee as well as by the Revenue are allowed for statistical purposes.

Order pronounced in the open Court on 27/02/2025.

Sd/-
(Sanjay Awasthi)
Accountant Member

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

Kolkata, the 27th day of February, 2025

*Copies to :(1) Assistant Commissioner of Income Tax,
Circle-4, Patna,
Lok Nayak Jai Prakash Bhawan, 4th Floor,
Dak Bangalow Crossing, Frazer Road,
Patna-800001, Bihar*

*(2) Lesley Barbara Galstaun,
Lesdon Villa,
18, New Patliputra Colony,
Patna-800013, Bihar*

*(3) Commissioner of Income Tax (Appeals),
National Faceless Appeal Centre (NFAC),
Delhi;*

(4) CIT - , Patna;

(5) The Departmental Representative;

(6) Guard File

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By order

*Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha/Sr. P.S.