

**IN THE INCOME TAX APPELLATE TRIBUNAL,
'SMC' BENCH, KOLKATA**

Before Shri Duvvuru RL Reddy, Vice-President (KZ)

**I.T.A. No. 1888/KOL/2024
Assessment Year: 2017-2018**

***Dhan Prasad Nepal,.....Appellant
Raley Khasey, Khasey Busty,
Samdong, Gangtok, East Sikkim-737101,
Sikkim, India
[PAN:AKBPN4276G]***

-Vs.-

***Income Tax Officer,.....Respondent
Ward-3(1), Sikkim,
White Hall, Bhanu Path Road,
Sikkim-737101, India***

Appearances by:

*Shri Sujoy Sen, Advocate, appeared on behalf of the
assessee*

*Shri Kallol Mistry, JCIT, Sr. D.R., appeared on behalf of
the Revenue*

Date of concluding the hearing: February 27, 2025

Date of pronouncing the order: March 17, 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 22nd July, 2024 passed for Assessment Year 2017-18.

2. Brief facts of the case are that the assessee is an individual, who is an Indian National of Sikkimese origin and engaged in the

business as trader deals in Hardware Goods in the State of Sikkim. All the business activities of the assessee are executed/conducted in the State of Sikkim. As the assessee did not file his return of income under section 139(1) of the Act in the relevant assessment year within the due time, his case was reopened and notice under section 148 of the Act was issued. The assessee got his accounts audited under section 44AB of the Act and from the said audit report, it revealed his total income at 'NIL' out of gross turnover/receipt of Rs.11,89,20,997/-. The assessment under section 147/144B of the Act was completed by the Id. Assessing Officer on 22.03.2022 at the assessed total income of Rs.15,49,294/-.

3. On being aggrieved, the assessee preferred an appeal before the Id. CIT(Appeals).

4. The Id. 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 Id. CIT(Appeals). Thereafter the Id. CIT(Appeals) dismissed the appeal *ex-parte* on 22nd July, 2024.

5. On being aggrieved, the assessee preferred an appeal before the ITAT.

6. At the time of hearing, it was the submission of the Id. Counsel for the assessee that Id. CIT(Appeals) passed an *ex-parte* order by upholding the order passed by the Id. Assessing Officer.

Therefore, he pleaded to delete the addition made by the ld. Assessing Officer as confirmed by the ld. CIT(Appeals).

7. 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.15,49,294/-. 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.

8. I have heard the rival submissions and perused the material available on record. 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 of the case, based on the materials available on the record. Thus, the grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open Court on 17/03/2025.

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

Kolkata, the 17th day of March, 2025

*Copies to :(1) Dhan Prasad Nepal,
Raley Khasey, Khasey Busty,
Samdong, Gangtok, East Sikkim-737101,
Sikkim, India*

*(2) Income Tax Officer,
Ward-3(1), Sikkim,
White Hall, Bhanu Path Road,
Sikkim-737101, India*

*(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.