

**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. 393/PAT/2024
Assessment Year: 2017-2018**

***Ramesh Prasad Gupta,.....Appellant
1, Bengali Road, Mithapur B Area,
Patna-800001, Bihar
[PAN:ACVPG5869L]***

-Vs.-

***Income Tax Officer,.....Respondent
Ward-5(1), Patna,
Bihar***

Appearances by:

*Shri Nishant Maitin, C.A., appeared on behalf of the
assessee*

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

Date of concluding the hearing: March 10, 2025

Date of pronouncing the order: March 17, 2025

ORDER

The present appeal is directed at the instance of assessee against the order of ld. Commissioner of Income Tax (Appeals), dated 20th December, 2023 passed for Assessment Year 2017-18.

2. The appeal is time barred by 68 days in filing the appeal by the assessee. However, the assessee did not file any condonation petition. The assessee is not aware of the order passed by the ld. CIT(Appeals) and that time he was very busy due to emergent

medical condition of his wife. When the assessee came to know about the order passed by the ld. CIT(Appeals), the assessee approached the ld. A.R. to prefer an appeal, due to that there was a delay of 68 days in filing the appeal before the Tribunal. Therefore, he pleaded to condone the delay.

3. Considering the facts and circumstances of the case, I am inclined to condone the delay since the delay is not due to negligence on the part of assessee. Hence the delay is condoned.

4. Brief facts of the case are that the assessee is an individual, who is engaged in the business of trading of food grains in the name and style of M/s. Maa Ambey Traders. The assessee furnished his return of income on 07.11.2017 for the relevant assessment year declaring income of Rs.5,99,987/- alongwith tax audit report under section 44AB of the Income Tax Act. The assessment was framed by the ld. Assessing Officer by making an addition of Rs.33,24,500/- under section 68 of the Act on the ground that the assessee had deposited cash out of cash sales effected during demonetization period.

5. On being aggrieved, the assessee preferred an appeal before the ld. CIT(Appeals).

6. 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) dismissed the appeal *ex-parte* on 20th December, 2023.

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

8. At the time of hearing, it was the submission of the ld. Counsel for the assessee that ld. CIT(Appeals) passed an *ex-parte* order by upholding the order passed by the ld. Assessing Officer. Therefore, he pleaded to delete the addition made by the ld. Assessing Officer as confirmed by the ld. CIT(Appeals).

9. 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 by making an addition of Rs.33,24,500/- and assessed the taxable income at Rs.39,24,490/-. 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 its claim. Therefore, he pleaded to uphold the orders passed by the revenue authorities.

10. 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 Id. 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.

11. 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) Ramesh Prasad Gupta,
1, Bengali Road, Mithapur B Area,
Patna-800001, Bihar*

- (2) Income Tax Officer,
Ward-5(1), Patna, Bihar*
(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.