

**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. 26/PAT/2022
Assessment Year: 2017-2018**

***Mohit Kumar,.....Appellant
Tara Market, Dharam Kanta Gali,
Sahebganj, Chapra (Saran),
Bihar, Pin Code No. 841301
[PAN:ALWPK1980E]***

-Vs.-

***Principal Commissioner of Income Tax-1,..Respondent
Patna,
2nd Floor, C.R. Building,
Birchand Patel Marg,
Patna-800001, Bihar***

Appearances by:

N o n e, appeared on behalf of the assessee

*Shri Ashok Kumar, CIT, appeared on behalf of the
Revenue*

Date of concluding the hearing: February 10, 2025

Date of pronouncing the order: March 18, 2025

O R D E R

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

The appeal is directed at the instance of assessee against the order of Id. Principal Commissioner of Income Tax, Patna-1 dated 14th March, 2022 passed for Assessment Year 2017-18.

2. Brief facts of the cases are that the assessee is a retail trader of gold and silver ornaments. His proprietorship business under the name and style of Geetawali Jewellers is located in Sahebganj area of Chapra. The assessee made a cash deposit of Rs.80,57,000/- and Rs.2,80,000/- during demonetization period in his Bank accounts. The return of income was filed showing a total income of Rs.4,11,680/-. The case was selected for scrutiny and after considering the submissions made by the assessee, the ld. Assessing Officer estimated the income of the assessee at 6% of total turnover of Rs.1,69,71,900/-. Therefore, an addition of Rs.4,71,195/- was made to the total income of the assessee.

3. Aggrieved by the order of ld. Assessing Officer, the assessee preferred an appeal before the ld. CIT(Appeals).

4. The ld. Pr. CIT, Patna-1 initiated the proceedings under section 263 of the Income Tax Act because the assessment was completed without conducting inquiries and verifications. He further held that the source for cash deposits amounting to Rs.79,80,000/- made in the Bank account No. 449130110000080 at Bank of India during demonetization period was not examined during the assessment proceedings and also without examining proper bills, vouchers and supporting documents, the ld. Assessing Officer estimated the income at 5% under section 44AF of the Act on the disclosed turnover, which was not in existence.

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

6. None appeared on behalf of the assessee at the time of hearing inspite of granting several adjournments from 2022 onwards. The assessee nor his counsel appeared before the Tribunal to substantiate his claim. Therefore, we decided to dispose of the appeal after hearing the ld. Departmental Representative and the material available on record.

7. It was the submission of the ld. D.R. that during demonetization, the ld. Assessing Officer has not examined the cash deposits and also without verification of the vouchers and bills, made an estimation of profit at 6% under section 44AF of the Act. He further submitted that the ld. Pr. CIT has rightly initiated the proceedings under section 263 saying that the assessment order passed under section 143(3) of the Income Tax Act dated 12th July, 2019 is prejudicial to the interest of the revenue. Therefore, he pleaded to uphold the order passed by the ld. Pr. CIT. He further submitted that the assessee failed to avail the opportunity even before the Tribunal to substantiate his claim inspite of several opportunities given to the assessee.

8. We have perused the relevant material available on record. It is an admitted fact that the assessee made cash deposits amounting to Rs.79,80,000/- in the Bank account bearing No. 449130110000080 at Bank of India. It is also an admitted fact that without verification, the ld. Assessing Officer estimated the profit from the business at 6% of the total turnover of the assessee. On perusal of the assessment order, the ld. Assessing Officer has categorically mentioned that “the assessee failed to produce salary

register, rent receipts, misc. expenditure etc.”. The Id. Assessing Officer estimated profit at 6%. Therefore, we are of the view that without examining the basic business activity of the assessee, the Id. Assessing Officer estimated the profit at 6% is not acceptable. The assessee failed to establish the trade activity of the assessee by producing the sale register, rent receipts, etc. therefore, non-examination of basic trade activity is definitely prejudicial to the interest of the revenue. Therefore, we are of the view that the Id. Pr. CIT has rightly initiated the proceedings under section 263 of the Income Tax Act. Thus, the grounds raised by the assessee are dismissed.

9. In the result, the appeal of the assessee is dismissed.

Order pronounced in the open Court on 18/03/2025.

Sd/-
(Sanjay Awasthi)
Accountant Member

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

Kolkata, the 18th day of March, 2025

- Copies to :* (1) *Mohit Kumar,*
Tara Market, Dharam Kanta Gali,
Sahebganj, Chapra (Saran),
Bihar, Pin Code No. 841301
- (2) *Principal Commissioner of Income Tax-1,*
Patna,
2nd Floor, C.R. Building,
Birchand Patel Marg, Patna-800001, Bihar
- (3) *CIT - , Patna;*

- (4) *The Departmental Representative;*
- (5) *Guard File*

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By order

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

Laha/Sr. P.S.