

**INCOME TAX APPELLATE TRIBUNAL : GAUHATI BENCH : GUWAHATI  
BEFORE SHRI MANOMOHAN DAS, HON'BLE JUDICIAL MEMBER**

**AND**

**SHRI RAKESH MISHRA, HON'BLE ACCOUNTANT MEMBER**

ITA Nos. 263-264 / GTY / 2024

AY: 2020-21 & AY 2021-22

Friday Hinge S/o Late Yiang Lamare Caroline Colony Ladthlaboh, Jowai PIN-793150 (Meghalaya) <b>PAN: ABBPH1850K</b>	The ACIT, Central Circle-2, Guwahati
<b>(Appellant)</b>	<b>(Respondent)</b>

<b>Assessee By:</b>	Shri Vikash Agarwal, FCA
<b>Respondent By:</b>	Shri Kausik Ray, JCIT
<b>Date of Hearing:</b>	24.03.2025
<b>Date of Pronouncement:</b>	04.04.2025

**ORDER**

**PER MANOMOHAN DAS, JM**

The assessee filed this set of two appeals against the orders of the Learned Commissioner of Income Tax (Appeals), Central NER, Guwahati (hereinafter referred to as the "CIT(A)" dated 17.10.2024 passed under Section 250 of the Income Tax Act, 1961 (hereinafter

called the 'Act') and pertain to the Assessment Years [AY] 2020-21 to 2021-22.

2. The grievances of the assessee in both the appeals are similar in nature, and, therefore, we adjudicate the ITA No. 263 / GTY / 2024 and our observations would be binding on both the appeals.

3. The grounds of appeal of the assessee are submissive in nature which as under:-

(i) *For that on the facts and circumstances of the case as well as on the points of law the assessing officer erred in making an addition of Rs. 8,76,24,496/- u/s 69A of the Income Tax Act 1961.*

(ii) *For the facts and circumstances of the case the Ld. AO has erred in not considering the income of the assessee as exempt income u/s 10(26).*

(iii) *As the assessee was not liable to tax u/s 10(26), he was not required to maintain all the records or documents with regard to the income that was earned by him during the period under consideration. Hence, the assessee had shown only the amount shown in Form 26AS as his income.*

(iv) *The assessee is a member of Schedule tribe and his income is eligible for exemption u/s 10(26) and is also not a tech-savy person, hence the imposition of tax by the Ld. AO is inappropriate and is an injustice on the assessee.*

(v) *The reason for non-submission of document / explanation was because the assessee relied on his accountant for the same and his accountant did not provide the said information and kept the assessee in loop.*

(vi) *The assessee craves to submit the same and, in this regard, seeks your kind permission to admit the same as additional evidence under Rule 29.*

(vii) *As the assessee is not liable to be taxed u/s 10(26) and the disputed demand is quite substantial the assessee craves for stay on the demand. The assessee craves for relief from payment of income tax and interest thereon, and also for a stay of demand as determined till the disposal of this appeal.*

(viii) *The assessee pray that since the assessee also has agricultural business and hence the amount which has been deposited and withdrawn from the assessee's bank account relates to the same. Also, the assessee also prays that the assessee has also sufficient cash balance that are deposited in his bank account.*

4. The brief facts of the case are that, the assessee filed return of income on 10.09.2020 declaring total income of Rs. 3,04,070/-. This return of income was selected for complete scrutiny under CASS on the following issues:

1. Verification of transactions.

2. Suspicious claim of exemption u/s 10(26) as TDS is deducted by a deductor who is not from the areas or state mentioned in section 10(26).

3. Claim for large exempt Income (Business ITR).

Accordingly, notices u/s 143(2) of the Act dated 29.06.2021 and notices u/s 142(1) were issued to the assessee from time to time asking to submit details as mentioned therein. The assessee did not respond to that notices. A show cause notice dated 20.09.2022 was issued to the assessee as to why the assessment should not be completed to the best judgment u/s 144 of the Act. However, the assessee did not make compliance. Therefore, the cash deposits amounting to Rs. 8,76,24,496/- is treated as unexplained money in terms of section 69A of the Act. This amount also taxed in terms of section 115BBE of the Act.

4. The assessee filed 1<sup>st</sup> appeal before the Id. CIT(A). The Id. CIT(A) vide order dated 17.10.2024 dismissed the appeal of the assessee.

5. Being aggrieved, the assessee filed the present appeal before the Tribunal.

6. We observe that, the Id. CIT(A) dismissed the appeal of the assessee due to non-highlighting the relevant transactions in the bank statements and non-filing of proper evidence on reconciliation of the impugned amount. The observations of the Id. CIT(A) are as under:-

“7.2.2. During the appellate proceedings, the Appellant filed a submission which included copies of bank statements, ST certificate & work orders granted to him by Govt. of Meghalaya. The Appellant kept on reiterating that he is exempt from tax u/s 10(26) of the Act. However, the relevant transactions in the bank statements were not highlighted and reconciliation of the impugned amount with proper evidence was not submitted”.

7. The Id. AR submitted that, the income of the assessee is exempted as per section 10(26) of the Act and the assessee is not required to file any return of income, not required to maintain any

records of income in view of such exemption from income tax. On the other hand, the Ld. DR pointed out that, the assessee failed to substantiate his claims before the assessing officer. The assessment order is an ex-parte order. The assessee did not participate in the assessment proceedings and also failed to substantiate his claims during the appellate proceedings before the Id. CIT(A).

8. We do not agree to the submission of the Ld. AR that, the assessee is not required to furnish return of income as he is covered under section 10(26) of the Act. It is our considered opinion that, the assessee has to make claim for exemption from payment of tax by submitting the required materials before the Department. The assessee himself cannot take a decision that his income is exempt from tax and his claim has to be accepted without considering the conditions to be fulfilled by the assessee so as to cover u/s 10(26) of the Act.

9. We observe that, the assessee did not participate in the assessment proceedings. The assessee also failed to satisfy the CIT(A) that his income is exempt from tax. The assessee failed to furnish the source of the cash deposit before the lower authorities. However, there is no dispute that, the assessee is a member of the Scheduled Tribe community of the State of Meghalaya and his income may be exempted from tax under section 10(26) of the Act if he gets another opportunity to substantiate his claims. The Ld. DR has no objection for giving the assessee another opportunity to the assessee to substantiate his claims.

10. In view of the aforesaid discussions, we remand the case of the assessee to the Id. CIT(A) for reconsideration the case of the assessee after giving the assessee an opportunity of being heard. We direct the Id. CIT(A) to pass a fresh order on the case of the assessee after giving the assessee an adequate opportunity of being heard. At the same time, we direct the assessee to substantiate his claims before the Id.

CIT(A). Accordingly, we set aside the order of the Id. CIT (A) dated 17.10.2024 to clear the way for reconsideration of the matter of the assessee. Thus, we allow the appeals of the assessee for statistical purposes only.

11. In the result, the appeals of the assessee are allowed for statistical purposes only.

12. Order pronounced in the open court on this 04<sup>th</sup> day of April, 2025.

Sd/-

(Rakesh Mishra)  
Accountant Member  
Date: 04.04.2025

Sd/-

(Manomohan Das)  
Judicial Member

Copy forwarded to:-

1. Friday Hinge, S/o Late Yiang Lamare, Caroline Colony, Ladthlaboh, Jowai, PIN-793150 (Meghalaya).
2. The ACIT, Central Circle, Guwahati
3. The Pr.CIT
4. The CIT(A)
5. The DR
5. Guard file

By Order

Assistant Registrar  
ITAT, Guwahati / Kolkata