



**IN THE INCOME TAX APPELLATE TRIBUNAL  
JABALPUR BENCH "DB", JABALPUR**

**BEFORE SHRI KUL BHARAT, VICE PRESIDENT AND  
SHRI, NIKHIL CHOUDHARY, ACCOUNTANT MEMBER**

ITA Nos. 77 to 79/JAB/2024

Assessment Years: 2013-14, 2017-18 & 2018-19

<b>Vishal Datt</b> 1148-A, Napier Town, Jabalpur, Madhya Pradesh-482001.	v.	<b>DCIT/ACIT Circle-2(1)</b> Aayakar Bhawan, Napier Town, Jabalpur-482001.
<b>PAN:AFEPD5376B</b>		
(Appellant)		(Respondent)

Appellant by:	Shri Sanjay Seth, CA		
Respondent by:	Shri Alok Bhura, Sr. CIT(DR)		
Date of hearing:	19	05	2025
Date of pronouncement:	21	05	2025

**ORDER**

**PER KUL BHARAT, VICE PRESIDENT.:**

These three appeals, filed by the assessee, against the different orders of learned Commissioner Income Tax (Appeals) [hereinafter referred as the "Ld.CIT(A)"], pertaining to the assessment year 2013-14, 2017-18 & 2018-19. For the sake of convenience, all appeals were heard together and are being disposed off by this consolidated order. First, we will take up the appeal of assessee in ITA. No. 77/JAB/2024, pertaining to the A.Y. 2013-14 is taken as a lead case. The assessee has raised following grounds of appeal: -

*"1. AO had made addition of 7,79,326/- on account of disallowance of labour payments in Datt Enterprise account. Assessee had debited 1,35,86,570/- as labour wages and 20,66,976/- as 'leveling charges to P/L account. Assessee had done leveling work through contractor and TDS had been deducted on payment. In case of labour charges there are very few instances where receiver signature were not found due-to the reason that the amount was collected by the mukaddam i.e. head of the group of labourer same 'were explained to the AO but he had not accepted and made the adhoc disallowance against the order passed assessee made an appeal before CIT (A) but the notice of hearing were not receive by the assessee as the notice were sent in the email id VISHALDATT@YAHOO.COM but this email id. Were not used by the assessee since long time as there was fraud done by the assessee accountant and the FIR w lodged with the police station after which the police department officials had not to use this email id. due to which the*

*notices sent through mail were not seen by the assessee and the reply before the CIT ( A ) could not been submitted and the ex-party order was passed an appeal was dismissed. It is requested kindly delete the addition made by AO.*

*2. AO had made addition of 2,00,000/- on account of Govt. charges in liquor business. Assessee had debited 47,11,967/- as amount said to excise department for various charges for the year. This amount does not include any penal charges, books of accounts were verified by AO at that time he had not made by specific objection but later on he had made the addition of 2,00,000/- by not pointing out any 'specific entry. AO had made addition as per his own. Against: the order passed assessee made an appeal before the CIT.( A ) but the notice of hearing were not received by the assessee as the notice were sent in the email id. VISHALDATT@YAHOO.COM but the mail id. were not used by the assessee since long time re was fraud done by the assessee accountant and the as lodged with the police station after which the police department officials had not to use this email id. due to which notices sent through mail were not seen by the assessee an e reply before the CIT ( A ) could not been submitted and ex-parte order was passed and appeal was dismissed. It is requested kindly delete the addition made by AO.*

*3. Keeping the above facts in consideration it is requested from you to addition made may be deleted and appeal allowed.*

*4 The assessee craves leave to add alter any of the grounds of appeal before or at the time of hearing.”*

2. At the time of hearing, the Ld. Counsel for the assessee contended that the assessee did not receive any notices of hearing as issued by the Ld. CIT(A). He contended that the Chartered Accountant of the assessee had committed fraud and FIR was registered against him. He also submitted that email was related to the Chartered Accountant so the assessee was not aware of the date of hearing. Further, he submitted that the assessee may be given one more opportunity to represent his case effectively before the First Appellate Authority.

3. On the other hand, learned Departmental Representative (“DR”) opposed the submissions and supported the orders of the authorities below. He contended that the assessee was thoroughly negligent and did not pursue his case before the Ld. CIT(A). Therefore, in the absence of the representation on behalf of the assessee, the Ld. CIT(A) was justified in passing the exparte order against the assessee.

4. We have heard the rival submissions and perused the material available on record. It is seen from the records that the assessee had raised effectively two grounds against impugned additions. Admittedly, the appeal of the assessee has been dismissed exparte to the assessee by the Ld. CIT(A) without adverting to the grounds raised and deciding the issue on merits. It is well settled law that the assessee should be given opportunity of being heard for effectively representing his case. At the same time, the Ld. CIT(A) is under legal obligation to pass a speaking order on the merits of the case. Therefore, looking to the totality of the facts, we deem expedient to sub-serve the interest of principles of natural justice to set aside the impugned order and restore the grounds to the file of the Ld. CIT(A) to decide it afresh by way of speaking order, after giving adequate opportunity of hearing to the assessee. Hence, the impugned order is hereby set aside and grounds of appeal are restored to Ld. CIT(A) for decision afresh. Grounds raised in this appeal are allowed for statistical purpose.

5. Now, we take up the assessee's appeal in ITA. Nos.78 to 79/JAB/2024 for A.Y. 2017-18 & 2018-19. The identical grounds have been taken in all these appeals. For the sake of clarity, all the grounds are reproduced as under: -

**ITA. No.78/JAB/2024**

*"1. AO has made addition of 2,04,556/- on account of disallowance of interest expenses. It is submitted that assessee during the period of consideration has advanced amount of 15,15,232 to his mother Smt. Maitri Datt and Datt Entertainment Pvt. Ltd., on the other hand assessee has taken amount of 2,35,10,432/- from his father's concern Datt Associates on which no interest has been paid. As the assessee given the amount out his capital and fathers fund the disallowance of interest made by AO may kindly be deleted. Against the order assessee made an appeal before the CIT ( A ) but the notice of hearing were not received by the assessee as the notice were sent in the email id. VISHALDATT@YAHOO.COM but this email i.d. was not used by the assessee since long time as there was fraud done by the assessee accountant and the FIR lodged with the police station after which the police department officials had not to use this email i.d. due to which the notices sent through mail were not seen by the assessee and the reply before the CIT ( A ) could not*

*been submitted and the ex-party order was passed an appeal was dismissed. It is requested kindly delete the addition made by AO.*

*2 AO has made addition of 15,77,156/- on account of deemed: dividend. It is submitted that assessee is one of the shareholder of Datt Real Infra Pvt. Ltd. from whom assessee firm is having business transaction. Assessee is having the business transaction with the company and the copy of agreement are submitted with the AO. All the transactions are through cheques and related to the business. AO has treated accumulated profit of company Datt Real Infra Pvt. Ltd. as deemed divided which is not correct and may kindly deleted. Against the order passed assessee made an appeal before the CIT ( A ) but the notice of hearing were not received by the assessee as the notice were sent in the email id. VISHALDATT@YAHOO.COM but this email i.d. were not used by the assessee since long time as there was fraud done by the assessee accountant and the FIR was lodged with the police station after which the police department official advised not to use this email id due to which the notices sent through mail were not seen by the assessee and the reply before the CIT ( A ) could not be submitted and the ex-parte order was passed and appeal was dismissed. It is requested kindly delete the addition made by AO.*

*3 AO has made addition of 4,52,149/- was made on account of Interest disallowance of interest expenses. It is submitted that assessee during the period of consideration has paid interest of 76,57,751/- to bank and financial institution. It is submitted that assessee has borrowed the funds from the bank and financial institution for the purpose of his business only. The investment made by the assessee in relation of LIP, mutual funds, shares etc. were out of his personal capital. As the assessee made the investment out of his capital disallowance made by AO may kindly be deleted. Against the order passed assessee made an appeal before the CIT (A) but the notice of hearing were not received by the assessee as the notice were sent in the email id. VISHALDATT@YAHOO.COM but this email id. were not used by the assessee since long time as there was fraud done by the assessee accountant and the FIR was lodged with the police station after which the police department official had not to use this email i.d. due to which the notices sent through mail were not seen by the assessee and the reply before the CIT ( A ) could not be submitted and the ex-part order was passed and appeal was dismissed. It is requested kindly delete the addition made by AO.*

*4 AO has made the addition of Rs. 3,36,000 on account of disallowance of salary expenses in liquor account. During the assessment proceedings AO has asked for the verification of salary register and made the addition by stating the salary register maintained by the assessee is defective i.e. identity to payee is not available, address and full name is not found. It is submitted that if the AO has asked for the identity of the employee same had been submitted. Addition made by AO is not correct and the same may kindly be deleted. Against the order passed assessee made an appeal before the CIT (A) but the notice of hearing were not received by the assessee as the notice were sent in the email id.VISHALDATT@YAHOO.COM but this email i.d. were not used by the assessee since long time as there was fraud done by the assessee accountant and the FIR was lodged with the police station after which the police department officials had not to use this email i.d. due to which the notices sent through mail were not seen by the assessee and the reply before the Ld. CIT (A) could not be submitted and the ex-party order passed and appeal was dismissed. It is requested kindly delete the addition made by AO.*

*5 Keeping the above facts in consideration it is requested from you to addition made may be deleted and appeal be allowed.*

6 The assessee craves leave to add alter any of thousands of appeal before or at the time of hearing.”

**ITA. No.78/JAB/2024**

“1. AO has made addition of 2,81,772/- on account of disallowance of interest expenses. It is submitted that assessee during the period of consideration has advanced amount of 22,26,848/- to his mother Smt. Maitri Datt and Datt Entertainment Pvt. Ltd., on the other hand assessee has is having the personal capital of Rs.4,54,62,659/- from his father’ concern Datt Associates on which no interest has been paid. As the assessee given the amount out his capital and fathers fund the disallowance of interest made by AO may kindly be deleted. Against the order assessee made an appeal before the CIT (A) but the notice of hearing were not received by the assessee as the notice were sent in the email id. [VISHALDATT@YAHOO.COM](mailto:VISHALDATT@YAHOO.COM) but this email i.d. was not used by the assessee since long time as there was fraud done by the assessee accountant and the FIR lodged with the police station after which the police department officials had not to use this email i.d. due to which the notices sent through mail were not seen by the assessee and the reply before the CIT (A) could not been submitted and the ex-party order was passed an appeal was dismissed. It is requested kindly delete the addition made by AO.

2. AO has made addition of Rs.45,11,612/- on account of deemed dividend. It is submitted that assessee is one of the shareholder of Datt Real Infra Pvt Ltd from whom assessee firm is having business transaction. Assessee is having the business transaction with the company and the copy of agreement were submitted with the AO. All the transactions are through cheques and related to the business. It is submitted that out of Rs. 45,11,612 amount of Rs. 4,21,102 is already added during the AY 2017-18. AO has treated accumulated profit of company Datt Real Infra Pvt. Ltd. as deemed divided which is not correct and may kindly be deleted. Against the order passed assessee made an appeal before the CIT ( A ) but the notice of hearing were not received by the assessee as the notice were sent in the email id [VISHALDATT@YAHOO.COM](mailto:VISHALDATT@YAHOO.COM) but this email i.d. were not used by the assessee since long time as there was fraud done by the assessee accountant and the FIR was lodged with the police station after which the police department officials has not to use this email i.d. due to which the notices sent through mail were not seen by the assessee and the reply before the Ld. CIT(A) could not been submitted and the ex-party order was passed and appeal was dismissed. It is requested kindly deleted the addition made by AO.

3. AO has made the addition of Rs. 7,78,073 on account of disallowance of salary expenses. During the year under consideration assessee is having salary expenses of Rs 7,80,732. During the assessment proceedings details required by AO were submitted. It is submitted that if the A as disallowed 10 percent lump-sum of salary by stating that the expenses are not explained properly. Addition made by AO is not correct and the same may kindly be deleted. Against the order passed assessee made an appeal before the CIT ( A ) but the notice of hearing were not received by the assessee as the notice were sent in the email id. [VISHALDATT@YAHOO.COM](mailto:VISHALDATT@YAHOO.COM) but this email i.d. were not used by the assessee since long time as there was fraud done by the assessee accountant and the FIR was lodged with the police station after which the police department officials had not to use this email i.d. due to which the notices sent through mail were not seen by the assessee and the reply before the CIT(A) could not been submitted and the ex-party order was passed and appeal was dismissed. It is requested kindly deleted the addition made by AO.

5 Keeping the above facts in consideration it is requested from you to addition made may be deleted and appeal be allowed.

6 The assessee craves leave to add alter any of thousands of appeal before or at the time of hearing.”

6. The facts are identical in these appeals. Ld. Counsels for the assessee and Ld. DR have adopted the same arguments as in ITA. No.77/JAB/2024 since the orders are exparte to the assessee. The assessee has demonstrated the sufficient cause for non-appearance before the Ld. CIT(A). Therefore, we deem it expedient to set aside the impugned orders for the same reasoning as were in ITA. No.77/JAB/2024 for A.Y. 2013-14 and same shall apply *mutatis mutandis* to ITA. Nos. 78 & 79/JAB/2024. All the grounds of appeal of the assessee are allowed for statistical purposes.

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

Order pronounced in the open Court on 21/05/2025.

Sd/-  
[NIKHIL CHOUDHARY]  
ACCOUNTANT MEMBER

Sd/-  
[KUL BHARAT]  
VICE PRESIDENT

DATED: 21/05/2025

Vijay Pal Singh, (Sr. PS)

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent
3. The CIT (Judicial)
4. The PCIT
5. DR, ITAT, Jabalpur
6. Guard File

By order

// True Copy//

Assistant Registrar  
ITAT, Jabalpur