

**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. 360/PAT/2023
Assessment Year: 2017-2018**

***Akanksha Enterprises Private Limited,.....Appellant
Chailital, Gulzarbagh,
Patna-800007, Bihar
[PAN:AAFCA5764K]***

-Vs.-

***Commissioner of Income Tax (Appeals),...Respondent
Patna, Bihar***

Appearances by:

*Shri Amit Kamalia, C.A., appeared on behalf of the
assessee*

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

Date of concluding the hearing: May, 08, 2025

Date of pronouncing the order: May 26, 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 18th August, 2023 passed for Assessment Year 2017-18.

2. The appeal is time barred by 65 days in filing the appeal by the assessee. However, Director of the assessee-Company filed an

Affidavit dated 23.01.2025 saying that the assessee was not aware of the order passed by the ld. CIT(Appeals) due to communication on the wrong e-mail ID duly mentioned in the Form 35 filed. When the assessee came to know about the order passed by the ld. CIT(Appeals) *ex-parte*, the assessee approached the ld. A.R. to prefer an appeal, due to that there was a delay of 65 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 of the view that the assessee was prevented in filing the appeal within the stipulated time. Therefore, I am inclined to condone the delay of 65 days. Hence the delay is condoned.

4. Brief facts of the case are that the assessee filed its return of income on 31.10.2017 and processing under section 143(3) was completed on 28.12.2019. The ld. Assessing Officer made the addition of cash deposit in demonetization period Rs.12,48,000/- as unexplained under section 69A and initiated penalty proceeding under section 271AAC of the Act and charged interest under sections 234A and 234B of the Income Tax Act, 1961. On being aggrieved, the assessee preferred an appeal before the ld. CIT(Appeals).

5. The ld. CIT(Appeals) has given several opportunities to the assessee to substantiate its claim, but the appellant neither filed the written submission nor represented the case before the ld.

CIT(Appeals). Thereafter the ld. CIT(Appeals) dismissed the appeal *ex-parte* on 18th August, 2023.

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

7. At the time of hearing, ld. Counsel for the assessee prayed before the Bench that the impugned order be set aside and remitted back to the file of ld. CIT(Appeals) for deciding it afresh.

8. 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.12,48,000/-. 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 order passed by the ld. CIT(Appeals).

9. I have heard the rival contentions 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 based on the materials available on the record. Thus, the grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open Court on 26/05/2025.

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

Kolkata, the 26th day of May, 2025

*Copies to :(1) Akanksha Enterprises Private Limited,
Chailital, Gulzarbagh,
Patna-800007, Bihar*

*(2) Commissioner of Income Tax (Appeals),
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.