

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
KOLKATA-CUTTACK 'e-COURT', KOLKATA  
[Hybrid Court Hearing]**

**Before Shri Duvvuru RL Reddy, Vice-President (KZ)  
&  
Shri Rakesh Mishra, Accountant Member**

**I.T.A. No. 158/CTK/2025  
Assessment Year: 2016-2017**

***Shivani Industries,.....Appellant  
Plot No. 1082, Canal Road,  
Bomikhal, Rasulgarh,  
Khorda-751010, Odisha  
[PAN:ABMFS6381D]***

**-Vs.-**

***Deputy Commissioner of Income Tax,.....Respondent  
Circle-1(1), Bhubaneswar,  
Aayakar Bhawan, Bhubaneswar-751007,  
Odisha***

**Appearances by:**

*Shri Rohit Singhania, A.R., appeared on behalf of the  
assessee*

*Shri S.C. Mohanty, Sr. D.R., appeared on behalf of the  
Revenue*

**Date of concluding the hearing: May, 05, 2025**

**Date of pronouncing the order: May 26, 2025**

**O R D E R**

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

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 13<sup>th</sup> January, 2025 passed for Assessment Year 2016-17.

2. Brief facts of the case are that the assessee is a partnership firm, engaged in the business of sale and purchase of land. It filed its return of income for the assessment year 2016-17 declaring a total income of Rs.(-7,653/-) vide Acknowledgment No. 627894040200217 dated 20.02.2017. For the same year, a revised return was also filed by the assessee disclosing a total income of Rs.(-7,653/-) vide Acknowledgment No. 818911830220617 dated 22.06.2017. Ld. Assessing Officer reopened the assessment and from the verification details uploaded in the insight portal, it is seen that the assessee purchased a piece of land at a cost of Rs.1,37,25,000/-. During the course of investigation, the assessee could not explain the source of such investment. Notice under section 148 of the Act was issued to the assessee asking it to file return of income for the impugned assessment year. The assessee again disclosed the same dated 27.01.2022. The ld. Assessing Officer determined the taxable income at Rs.45,67,347/- after making addition of Rs.45,75,000/- being the difference between the purchase value of Rs.1,37,25,000/- adopted by the Government authority for stamp valuation purchase and the actual consideration of Rs.91,50,000/- for purchase of land from Shri Tarun Kumar Nanda and others under the head income from other sources. On being aggrieved, the assessee preferred an appeal before the ld. CIT(Appeals).

3. 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 13<sup>th</sup> January, 2025.

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

5. 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.

6. 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.45,67,347/-. 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).

7. We have heard the rival contentions and perused the material available on record. Considering the facts and circumstances of the case, we are 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, we 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.

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

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

Sd/-  
**(Rakesh Mishra)**  
**Accountant Member**

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

***Kolkata, the 26<sup>th</sup> day of May, 2025***

- Copies to :*(1) *Shivani Industries,*  
*Plot No. 1082, Canal Road,*  
*Bomikhal, Rasulgarh,*  
*Khorda-751010, Odisha*
- (2) *Deputy Commissioner of Income Tax,*  
*Circle-1(1), Bhubaneswar,*  
*Aayakar Bhawan, Bhubaneswar-751007,*  
*Odisha*
- (3) *Commissioner of Income Tax (Appeals),*  
*NFAC, Delhi;*

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

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*By order*

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

**Laha/Sr. P.S.**