

**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. 343/PAT/2024
Assessment Year: 2017-2018**

***Sanjay Kumar,.....Appellant
Uday Kirana Provision Store,
New Market, Patna-800001, Bihar
[PAN:ABGPK2362N]***

-Vs.-

***Assistant Commissioner of Income Tax,...Respondent
Circle-6, Patna,
Lok Nayak Jay Prakash Bhawan,
Dak Bunglow Chauraha, Patna-800001, Bihar***

Appearances by:

*Shri K.N. Prasad, A.R., appeared on behalf of the
assessee*

*Shri Ashwani Kumar, Sr. D.R., appeared on behalf of
the Revenue*

Date of concluding the hearing: April 17, 2025

Date of pronouncing the order: May 27, 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 31st January, 2023 passed for Assessment Year 2017-18.

2. The appeal is time barred by 362 days in filing the appeal by the assessee. However, the assessee filed a condonation petition saying that he was not aware of the order passed by the Id. CIT(Appeals) due to laziness of his previous counsel, who did not take any step for pursuing the appeal or informing within time. When the assessee came to know about the order passed by the Id. CIT(Appeals), the assessee approached the Id. A.R. to prefer an appeal, due to that there was a delay of 362 days in filing the appeal before the Tribunal. Therefore, he pleaded to condone the delay.

3. Considering the facts and circumstances of the case, we are inclined to condone the delay since the assessee has established sufficient cause to condone the delay. Hence the delay is condoned.

4. Brief facts of the case are that the assessee filed its return of income for AY 2017-18 on 03.11.2017 showing total income of Rs.23,22,870/- under the head profit and gains from business or profession. The case was selected for scrutiny assessment through CASS to verify the issue on cash deposit during demonetization period and cash deposit during the year. Accordingly notice under section 143(2) was issued and served on the assessee on his registered mail through ITBA Portal as well as by Speed Post. Thereafter notice under section 142(1) of the Income tax Act was issued on 12.09.2019 and served on the assessee asking the

assessee to furnish ITR, computation of income, audit report pertaining to AY 2017-18, list of bank accounts held during the FY 2015-16 to 2017-18 and copy of cash book for FY 2015-16 to 2017-18, but no compliance was made from the side of assessee. Finally, the ld. Assessing Officer completed the assessment under section 143(3) read with section 147 of the Act assessing the total income at Rs.1,63,74,870/-. 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 his 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 13st January, 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. 1,63,74,870/-. 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. 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.

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

Sd/-
(Sanjay Awasthi)
Accountant Member

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

Kolkata, the 27th day of May, 2025

*Copies to :(1) Sanjay Kumar,
Uday Kirana Provision Store,
New Market, Patna-800001, Bihar*

(2) *Assistant Commissioner of Income Tax,
Circle-6, Patna,
Lok Nayak Jay Prakash Bhawan,
Dak Bunglow Chauraha, Patna-800001,
Bihar*

(3) *Commissioner of Income Tax (Appeals),
National Faceless Appeal Centre (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.