

**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. 134/PAT/2010  
Assessment Year: 2006-2007**

***Bajrang Construction,.....Appellant  
Chand Parna, Sidhwalia, Gopalganj  
[PAN:AADFC7059A]***

**-Vs.-**

***Deputy Commissioner of Income Tax,.....Respondent  
Circle-2, Muzaffarpur***

**Appearances by:**

*Shri Ravi Shankar, Advocate, appeared on behalf of the  
assessee*

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

**Date of concluding the hearing: April 15, 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)-1, Patna dated 8<sup>th</sup> March, 2010 passed for Assessment Year 2006-07.

2. Brief facts of the case are that the assessee filed its return of income on 23.01.2007 declaring total income of Rs.5,69,516/-. The assessee derives income from civil contract work. The case was selected for scrutiny assessment as it fell under compulsory scrutiny. Notices under sections 143(2) and 142(1) were issued and duly served on the assessee. The assessee was requested vide notice under section 142(1) dated 21.08.2008 to produce all the bills/vouchers in support of various kinds of expenses debited in the profit & loss accounts. The assessee has shown net profit of Rs.7,75,185/- before salary and interest to partners and firm tax which comes to 2% of the gross contract receipt of Rs.3,87,09,872/-. The assessee was asked to furnish relevant details, but in spite of that, the assessee failed to produce bills/vouchers. There were many cash payments for different expenditures which make genuineness of expenses claimed highly doubtful. The assessee has not been able to explain the deposits amounting to Rs.15,51,160/-. The books of account of the assessee maintained poorly and incomplete. Therefore, the ld. Assessing Officer treated the deposits as unexplained concealed income and added to the total income of the assessee under section 68 of the Income Tax Act. Finally, the ld. Assessing Officer completed the assessment assessing the total income of the assessee at Rs.44,42,282/- and initiated penalty proceedings under section 271(1)(c) of the Act. 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 8<sup>th</sup> March, 2010.

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.44,42,282/- as unexplained. 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 27/05/2025.

Sd/-  
**(Sanjay Awasthi)**  
**Accountant Member**

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

***Kolkata, the 27<sup>th</sup> day of May, 2025***

- Copies to :*(1) *Bajrang Construction,*  
*Chand Parna, Sidhwalia, Gopalganj*
- (2) *Deputy Commissioner of Income Tax,*  
*Circle-2, Muzaffarpur*
- (3) *Commissioner of Income Tax (Appeals)-1,*  
*Patna;*
- (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.***