

IN THE INCOME TAX APPELLATE TRIBUNAL, RANCHI BENCH, RANCHI

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER AND
SHRI RATNESH NANDAN SAHAY, ACCOUNTANT MEMBER

I.T.A. No. 233 & 234/Ran/2024 (Assessment Year-2011-12 & 2012-13)

(Virtual Hearing)

Nand Kumar Singh, 25 Rain Basera Colony, Adityapur, West Singhbhum, Jharkhand-831013. PAN No. AEIPS 9364 K	Vs.	DCIT/A.C.I.T., Circle-2, Jamshedpur.
Appellant/ Assessee		Respondent/ Revenue

Assessee represented by	Shri Sumit Mittal, A.R.
Department represented by	Shri Khubchand T. Pandya, Sr.DR
Date of hearing	05/05/2025
Date of pronouncement	05/05/2025

ORDER

PER: BENCH

1. These appeals by the assessee are directed against the separate orders of the National Faceless Appeal Centre, Delhi (NFAC)/learned Commissioner of Income Tax (Appeals), [in short, the Id. CIT(A)] both dated 19/02/2024 for the Assessment Year (AY) 2011-12 and 2012-13 respectively. Both these appeals have similar facts and grounds, therefore, with the consent of parties, both these appeals were clubbed and heard together and are decided by this common order. For appreciation of facts, we take ITA No. 233/Ran/2024 for the A.Y. 2011-12 as a lead case.
2. Rival submissions of both the parties have been heard and record perused. At the outset of hearing, the learned Authorised Representative (Id. AR) of the assessee submits that that the Assessing Officer as well as the Id. CIT(A) have not given fair and reasonable opportunity of hearing to the assessee.

The Id. AR of the assessee submits that the Assessing Officer made various additions without giving fair and reasonable opportunity of hearing to the assessee. The Id. AR of the assessee submits that the assessment was completed on 31/05/2018 under Section 147 r.w.s. 144 of the Act. The Id. CIT(A) confirmed the addition made by the Assessing Officer in ex parte order. No sufficient and reasonable opportunities were provided to the assessee by the Id. CIT(A). The Id. AR of the assessee submits that the assessee has good case on merit and is likely to succeed if one more opportunity is provided. The Id. AR of the assessee submits that he states on behalf of assessee to be more vigilant in future in making compliance.

3. On the other hand, the learned Senior Departmental Representative (Id. Sr.DR) for the revenue supported the orders of the revenue authorities. Ld. Sr.DR for the revenue submits that the revenue authorities have provided more than sufficient opportunities to the assessee to comply with the notices but assessee failed to avail such opportunities. Thus, the assessee does not deserve any leniency and additions made by the Assessing Officer may be upheld.
4. We have carefully considered the submissions of the both the parties and have gone through the orders of the lower authorities. We find that the Assessing Officer completed the assessment ex parte under Section 144 r.w.s 147 of the Act on 31/05/2018. We find that during the assessment, the Assessing Officer issued various statutory notices as recorded in para 3 of assessment order.

5. On appeal before the Id. CIT(A), the assessee was again served with various notices to substantiate the various grounds of appeal raised before Id. CIT(A). In response to the notices issued by the Id. CIT(A), the assessee filed a written submission electronically. The Id. CIT(A) after perusing the facts and circumstances of the case and the contents made in the written submissions, confirmed the addition made by the Assessing Officer.
6. Now before us, the Id. AR of the assessee submitted that no fair and reasonable opportunities of hearing were provided to the assessee. The Id. AR of the assessee submitted that one more opportunity should be provided to assessee and to decide the matter on merit and prayed to restore the matter back to the file of Assessing Officer. It is correct that reasonable opportunities have been provided to the assessee, still, there was no compliance. The facts remain that the income tax laws are within the ambit of welfare legislation which are absolutely separate from penal legislation and therefore, given the facts and circumstances and as per applicable law, benefit of doubt has to be attributed to the assessee/tax payer. There may be circumstances beyond the control of assessee or "vis major" because of which the assessee may not have able to comply with the notices before the revenue authorities. Under the given facts on record, which cannot be said that such non-compliance was deliberate or malafide on the part of assessee. Considering the facts and circumstances of the case and keeping in view the principles of natural justice, the matter is restored to the file of Assessing Officer considering the fact that assessment was completed under section 144 of the Act, to pass assessment order afresh in accordance with law.

Needless to direct that before passing the order, the Assessing Officer shall grant reasonable opportunity of being heard to the assessee. The assessee is also directed to avail this opportunity and not to cause further delay and seek adjournment without any valid reasons and to furnish all the details and evidences to justify various grounds of appeal raised by him. In the result, the grounds of appeal raised by the assessee are allowed for statistical purposes.

7. Similarly in ITA No.234/Ran/2024 for the A.Y. 2012-13, we find that in this appeal, the assessee has raised similar grounds of appeal except variation of additions/disallowances made by the Assessing Officer. We also find that the facts of the case and the grounds of appeal as raised by the assessee in this appeal are similar to the facts and grounds of appeal as raised in ITA No. 233/Ran/2024 for the A.Y. 2011-12, where we have restored the matter back to the file of Assessing Officer for deciding the issue afresh. Therefore, keeping in view the principle of consistency on similar set of facts, this appeal of assessee is also restored back to the file of Assessing Officer for deciding the issue afresh. In the result, grounds of appeal are allowed for statistical purposes only.
8. In the result, both these appeals of assessee are allowed for statistical purposes only.

Order announced in open court on 05th May, 2025.

Sd/-
(GEORGE MATHAN)
JUDICIAL MEMBER

Sd/-
(RATNESH NANDAN SAHAY)
ACCOUNTANT MEMBER

Ranchi, Dated: 05/05/2025
**Ranjan*

Copy to:

1. Assessee
2. Revenue
3. CIT
4. DR
5. Guard File

By order

Sr. Private Secretary, ITAT, Ranchi