

**INCOME TAX APPELLATE TRIBUNAL : GAUHATI BENCH : GUWAHATI**

**BEFORE SHRI MANOMOHAN DAS, HON'BLE JUDICIAL MEMBER**

**AND**

**SHRI RAKESH MISHRA, HON'BLE ACCOUNTANT MEMBER**

**ITA No. 225 -226 / GTY / 2024**

**AY: 2014-15 & AY 2017-18**

Vashi Nganingkhui Khongbal Tabgkul, Pangei Yangdong, Kangpokpi, Imphal, Manipur, PIN-795114 <b>PAN: AFPPN3984C</b>	The ITO, ACIT Circle, Imphal
<b>(Appellant)</b>	<b>(Respondent)</b>

<b>Assessee By:</b>	None
<b>Respondent By:</b>	Shri Kaushik Ray, JCIT
<b>Date of Hearing:</b>	13.03.2025
<b>Date of Pronouncement:</b>	26 .03.2025

**ORDER**

**PER MANOMOHAN DAS, JM**

The assessee filed this set of two appeals against the orders of the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi (hereinafter referred to as the "CIT(A) dated 26.06.2024 passed under Section 250 of the Income Tax Act, 1961 (the 'Act') and pertain to the Assessment Year [AY] 2014-15 & AY 2017-18.

2. The grievances of the assessee in both the appeals are similar in nature, and, therefore, we adjudicate the ITA No. 226 / GTY / 2024 and our observations would be binding on both the appeals.

3. The grounds of appeal of the assessee are submissive in nature which as under:-

(i) *On the facts and circumstances of the case, order passed by Ld. CIT(A) is erroneous both on facts and in law to the extent which is prejudicial to the interest of the appellant.*

(ii) *The Ld. CIT(A) erred in dismissing the appeal filed by the appellant without even going through the facts of the case due to appellant's non-response to the hearing notice even though the appellant has reasonable cause for non-responsive.*

(iii) *The Ld. CIT(A) ought to have appreciate the fact that the appellant belongs to a Scheduled Tribe as per clause 25 of article 366 of the constitution and income earned by the appellant is completely exempt u/s 10(26) of the Act.*

(iv) *The Ld. CIT(A) ought to have appreciated that the Ld. AO has erred in adding Rs. 5,80,02,203/- as 'Profits & Gains from Business and Profession' without considering the exemption u/s 10(26) of the Act.*

(v) *The Ld. CIT(A) ought to have appreciated that the Ld. AO has erred in adding Rs. 1,19,303/- to the total income under the head 'Other Sources' without considering the exemption u/s 10(26) of the Act.*

(vi) *On the facts and circumstances of the case, interest levied under section 234A of the Act by Ld. AO was consequential in nature subject to the relief of other grounds of appeal.*

(vii) *On the facts and circumstances of the case, interest levied under section 234B of the Act by Ld. AO was consequential in nature to the relief of other grounds of appeal.*

4. The brief facts of the case are that, the assessee did not file return of income for AY 2014-15. As per the information available in the AIMS module of ITBA under the category of Multi Year NMS (Non-Filer Management System) the assessee made financial transactions during the FY 2013-14 relevant to AY 2014-15 and did not file return of income during the year under consideration. Accordingly, reasons for re-opening was recorded and notice u/s 148 of the Act dated 30.03.2021 was issued to the assessee after obtaining the approval of the Jurisdictional authorities as per section 151 of the Act and the same was served upon the assessee. The assessee made financial transactions to an amount of Rs. 5,81,21,506/- and such transactions

were not disclosed and remained unaccounted. The assessee failed to file requisite details in respect of the statutory notices issued to him. Since, the assessee failed to respond to the various notices, the Id. Assessing Officer [AO] proceeded to complete the assessment ex-parte u/s 144 of the Act on the materials available on record. The Id. AO has made addition of the aforesaid amount of Rs. 5,81,21,505/- to the total income of the assessee and brought to tax vide order dated 01.03.2022.

5. Being aggrieved, the assessee filed 1<sup>st</sup> appeal before the Id. CIT(A).The Id. CIT(A) vide order dated 26.06.2024 dismissed the appeal of the assessee..

6. The Id. CIT(A) issued several notices to the assessee as opportunities to make submissions in support of the grounds taken during the appeal. However, the assessee failed to respond to the notices issued by the Id. CIT(A). Consequently, the Id. CIT(A) considered the case of the assessee on merit in absence of the assessee and observed that, no interference is called for in the AO's order and accordingly, dismissed the appeal of the assessee.

7. We observe that, the orders of the lower authorities were ex-parte orders. Secondly, the assessee claimed that, he is a member of the Scheduled Tribe community and eligible for exemption from tax u/s 10(26) of the Act but he failed to respond to the notices which were issued by the lower authorities. Therefore, it is our considered opinion that, another opportunity ought to be given to the assessee so that he can substantiate his claims before the Id. AO for the ends of justice. Accordingly, we set aside the order of the Id. CIT(A) dated 26.06.2024 and remand the case of the assessee to the file of the Id. AO for consideration afresh. We direct the Id. AO to reframe the assessment after giving the assessee an adequate opportunity of being heard. At the same time, we direct the assessee to substantiate his claims before the Id. AO. The Id. DR has no objection in remitting the

case of the assessee to the Id. AO for re-consideration. Thus, we allow the appeal of the assessee for statistical purposes only.

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

12. Order pronounced in the open court on this 26<sup>th</sup> day of March, 2025.

Sd/-  
(Rakesh Mishra)  
Accountant Member

Sd/-  
(Manomohan Das)  
Judicial Member

Date: 26 .03.2025

Copy forwarded to:-

1. Vashi Nganingkhui, Khongbal Tabgkul, Pangei, Yangdong, Kangpokpi, Imphal, PIN-795114, (Manipur)
2. The ITO, ACIT Circle, Imphal
3. The Pr.CIT
4. The CIT(A)
5. The DR
5. Guard file

By Order

Assistant Registrar  
ITAT, Guwahati / Kolkata