

**IN THE INCOME TAX APPELLATE TRIBUNAL 'Patna' BENCH, PATNA**  
(Through virtual hearing at Kolkata)

**BEFORE SHRI RAJESH KUMAR, AM**  
**AND**  
**SHRI PRADIP KUMAR CHOUBEY, JM**

**ITA No. 113/PAT/2025**  
**(Assessment Year: 2011-12)**

**Vivid Colors Pvt Ltd.**  
C/o Subash Agarwal &  
Associates, Advocates Siddha  
Gibson, 1, Gibson Lane,  
Suite 213, 2<sup>nd</sup> Floor, Kolkata-  
700069, West Bengal

**(Appellant)**

**Vs.**

**DCIT-Circle 2, Patna**  
4<sup>th</sup> Floor, Lok Nayak Jai Prakash  
Bhawan Fraser Road,  
Patna, Bihar

**(Respondent)**

**PAN No. AACCV1786F**

**Assessee by** : Shri Parna Dutta, AR  
**Revenue by** : Shri Ashwani Kr. Singal, DR

**Date of hearing:** 08.07.2025  
**Date of pronouncement:** 18.07.2025

**ORDER**

**Per Pradip Kumar Choubey, JM:**

This is an appeal preferred by the assessee against the order of the National Faceless Appeal Centre, Delhi (hereinafter referred to as the "Ld. CIT(E)") dated 04.02.2025 for A.Y. 2011-12.

02. The brief fact of the case is that the assessee has filed its return of income for the A.Y. 2011-12 was showing loss. On the basis of information received from DDIT, Unit-1, Kolkata, the case of the assessee was reopened. Accordingly, notice u/s 148 of the Income-tax Act, 1961 (the Act) was issued. The Id. AR of the assessee made compliance and filed the written submission and also filed fresh return of income showing loss. Subsequently, notice u/s 143(3) of the Act was issued and notice u/s 142(1) of the Act along with questionnaire was

issued but the assessee did not comply. The Id. AO found in the report of DDIT (investigation) that the assessee is a beneficiary of accommodation entries which are received through various Jama kharchi companies and the funds finally reached to the Vivid Colors Pvt. Ltd. The Id. AO also stated that a sum of ₹1,60,00,000/- received by the assessee company on different dates during the F.Y. 2010-11 through accommodation entries and nature and source of funds received remain unexplained. Since the assessee has failed to comply with all the terms of notice u/s 142(1) of the Act, the assessment order was passed u/s 144 read with section 147 of the Act on the basis of documents available on the records and income of the assessee are assessed at ₹1,60,00,000/- for the assessment order 2011-12 and net amount payable to the assessee as ₹1,11,33,950/-. Aggrieved by the said order, assessee preferred the appeal before the Id. CIT (A), wherein the appeal of the assessee has been dismissed as there was no compliance from the side of the assessee.

03. Being aggrieved and dissatisfied, the assessee has preferred the appeal before us.
04. The Id. AR instead of arguing into the merits of the case has to give an opportunity to place his case before the Id. CIT (A) as the order passed by the Id. CIT (A) is an ex-parte order. The Id. AR has filed an affidavit and indicates that the proper compliance shall be made from the side of the assessee, if the appeal of the assessee is restored back to the file of the Id. CIT (A).
05. The Id. DR did not raise any objection.

06. Upon hearing the submission of the Counsel of the respected parties, we have perused the order of the Id. CIT (A) and find that it has passed an ex-parte order. The Id. AR has filed an affidavit which is as below: -

"BEFORE THE NOTARY PUBLIC  
AFFIDAVIT

*1, SHAMSHER ALAM, son of KAMRUDDIN, aged 58 years, by religion Muslim, resident of Koirpurawa, Ward-28, Buxar, Bihar, PIN-802101, do hereby solemnly affirm and state as follows-*

*1. That I am one of the directors of M/s Vivid Colors Private Limited, hereinafter referred to as the "assessee" and, as such, I am competent to swear this affidavit on behalf of the said company.*

*2. That an appeal relating to A.Y.2011-12 was filed before the Ld. CIT(A), NFAC on 31.01.2019 against the assessment order dated 29.12.2018 u/s 147 r.w.s 144 of the Income Tax Act.*

*3. That the said appeal was dismissed by the Ld. CIT(A) by passing an ex-parte order on 04.02.2025 due to non compliance of anyone on assessee's behalf 4. That initially compliance could not be made since the assessee's office was not functioning due to covid. Thereafter, the accountant of the assessee-company who was entrusted with the task of accessing emails was not regularly attending office due to his ill health. As such, most of the notices skipped his attention.*

*5. That later on, on or around 25.02.2025 when I enquired the status of the appeal from my accountant and thereupon the said order was located in the Income Tax Portal which was already passed on 04.02.2025.*

*6. That then I immediately sought an appointment of Advocate Siddharth Agarwal of 1. Gibson Lane, Kolkata 700069 for filing an appeal before the Hon'ble Tribunal and handed over him all the relevant documents.*

*7. That the office of the said counsel prepared the appeal and finally the same was filed on 10.03.2025.*

*8. I give an undertaking that proper compliance shall be made from our end in case the matter is restored back to the file of lower authorities.*

*9. That the facts stated in para 1 to 7 are true to the best of my knowledge and belief and that in para 8 is an undertaking given by me.*

*Place: Patna  
Date: 16.06.2025*

*Sd/-  
Deponent"*

07. Keeping in view the order passed by the Id. CIT (A) and considering the affidavit filed by the Id. AR, we are inclined to restore the appeal of the assessee to the file of the Id. CIT (A) for fresh adjudication. The Id. CIT

(A) is directed to pass a fresh order after hearing the assessee. The assessee is also directed to co-operate in the proceedings.

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

Order pronounced in the open court on 18.07.2025.

Sd/-  
(RAJESH KUMAR)  
(ACCOUNTANT MEMBER)

Sd/-  
(PRADIP KUMAR CHOUBEY)  
(JUDICIAL MEMBER)

Kolkata, Dated: 18.07.2025

*Sudip Sarkar, Sr.PS*

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent
3. CIT
4. DR, ITAT,
5. Guard file.

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar  
Income Tax Appellate Tribunal, Kolkata