

**IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH, KOLKATA**

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER  
AND SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER**

**ITA No.1406/Kol/2025**

**Assessment Year: 2018-19**

<b>ITO, Ward-3(1), Gangtok</b>		<b>Krishna Prasad</b>
	Vs	C/o Dipak Chakraborty, 15, Shai Marg, Pradhan Nagar, Siliguri – 734003. (PAN: AUWPP1788N)
<b>(Assessee)</b>		<b>(Revenue)</b>

**CO No.61/Kol/2025**

**(in ITA No.1406/Kol/2025)**

**Assessment Year: 2018-19**

<b>Krishna Prasad</b>		<b>ITO, Ward-3(1), Gangtok</b>
C/o Dipak Chakraborty, 15, Shai Marg, Pradhan Nagar, Siliguri – 734003. (PAN: AUWPP1788N)	Vs	
<b>(Assessee)</b>		<b>(Revenue)</b>

**Present for:**

Assessee by : Shri Palas Chattopadhyay, AR  
Revenue by : Shri Sandip Sarkar, Sr. DR- JCIT

Date of Hearing : 01.09.2025

Date of Pronouncement : 01.09.2025

**ORDER**

**Per George Mathan:**

ITA No.1406 of 2025 is an appeal filed by the revenue against the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre [hereinafter referred to as the ‘CIT(A)’] in appeal

no.NFAC/2017-18/10042414 dated 07.04.2025 for assessment year 2018-19. C.O No.61 of 2025 is cross-objection filed by the assessee in respect of revenue's appeal in ITA No.1406/Kol/2025.

2. Shri Palas Chattopadhyay, AR represented on behalf of the assessee and Shri Sandip Sarkar, Sr. DR- JCIT represented on behalf of the revenue.

3. It was the submission by the ld. Sr. DR that the ld. CIT(A) has restored the issue in the appeal to the file of the Assessing Officer for producing the evidences before the Assessing Officer. It was the submission that this was not permissible in view of proviso to section 251(1)(a) of the Act. It was the submission that the order of the ld. CIT(A) is liable to be reversed.

4. In reply, the ld. AR submitted that the notices u/s 142(1) has been issued to the assessee only on 18.03.2021 and the assessee was asked to reply to the said notice by 20.03.2021. It was the submission that the assessment order has also been passed on 22.03.2021. It was the submission that the assessee has not been granted adequate time to respond to the notices and produce the evidences. It was the submission that consequently, the assessee produced evidences before the ld. CIT(A). It was the submission that the addition has been made by the Assessing Officer and was confirmed by the ld. CIT(A) is liable to be deleted.

5. We have considered the rival submissions. A perusal of the grounds of appeal raised by the revenue shows that the reasons raised in Rule 46A(3) of the I.T. Rules, this relates to the admission of additional evidence. It is very clear that the Assessing Officer in the course of assessment did not give the assessee adequate time to provide all the evidence before the Assessing Officer. This is the reason adjudicated by the ld. CIT(A) and after receipt of the fresh evidences restored the issues to the file of the Assessing Officer for re-examination. The ld. CIT(A) now has the power to set aside the issues to the file of the Assessing Officer. This being so, we find no error in the order of the ld. CIT(A) which calls for interference. In the result, the appeal of the revenue is dismissed and cross-objection of the assessee where he has asking that addition is required to be deleted stands also dismissed.

6. In the result, both the appeal of the revenue and cross-objection of the assessee stand dismissed.

***Kolkata, the 1<sup>st</sup> September, 2025.***

Sd/-

**[Sanjay Awasthi]**

लेखा सदस्य/Accountant Member

Sd/-

**[George Mathan]**

न्यायिक सदस्य/Judicial Member

Dated: 01.09.2025.

RS

*Copy of the order forwarded to:*

1. Assessee -
2. Revenue –
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches