

**IN THE INCOME TAX APPELLATE TRIBUNAL  
GUWAHATI BENCH AT KOLKATA**

**[Virtual Court]**

**Before**

**SHRI MANOMOHAN DAS, JUDICIAL MEMBER  
&  
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**I.T.A. No.: 3/GTY/2025  
Assessment Year: 2018-19**

Tarem Darang <i>(Appellant)</i>	Vs.	ITO, Ward-Itanagar <i>(Respondent)</i>
<b>PAN: AXOPD7396P</b>		

**Appearances:**

**Assessee represented by** : None.

**Department represented by** : Kausik Ray, JCIT

Date of concluding the hearing : 30-June-2025

Date of pronouncing the order : 15-September-2025

**ORDER**

**PER RAKESH MISHRA, ACCOUNTANT MEMBER:**

This appeal filed by the assessee is against the order of the Ld. Commissioner of Income Tax (Exemption)-Kolkata [hereinafter referred to as the 'Ld. CIT (Exemption)'] passed in respect of registration u/s 12AA of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') dated 14.10.2024.

1.1. Along with the appeal memo, the assessee has filed a petition seeking condonation of delay of 305 days, even though the Registry has not pointed out any such delay. The contents of the petition are as under:



*“I am resident Tribal of Arunachal Pradesh, I am not expert of Computer Operation and not aware to work in Income Tax Portal. I am solely dependent on Dharmendra Kumar Rai an assistant who file Appeal before C.I.T. (Appeals). He informs me lately and handover copy of order of CIT (Appeals) on 15<sup>th</sup> December 2024 and to confirm this fact he filed affidavit which is attached herewith.*

*Therefore, I could not file appeal before Hon'ble Income Tax Appellate Tribunal, Guwahati Bench in time resulting in delay in filling of appeal for 305 days.*

*Now, I pray to your honour to condone delay in filling appeal in form no.36 before IT AT Guwahati Bench.”*

1.2. We have considered the submission made in the petition filed. Since the Registry has not pointed out any such delay and there is sufficient cause for the delay, if any, in filing the appeal; the same is hereby condoned and the appeal is admitted for adjudication.

2. The assessee is in appeal before the Tribunal raising the following grounds of appeal:

*“1. That learned commissioner of Income tax (appeals) and assessing officer has not sended notice and requirement on my mail nor sent notice by speed post and nor sended message on my registered mobile number. Therefore, no notice was served to me and both authority has not sended order passed on my mail or by speed post and not given message on my registered mobile as such no notice was serve to me.*

*Both authority had posed notice on my PAN in Income Tax portal and my PAN was managed by my accountant who has not inform about notice and order passed by Income Tax Authority. As such I have not got opportunities to submit required documents. Therefore, order passed by Learner commissioner of Income Tax (appeals) was bad in law and liable to be quest.*

*2. The assessing officer and the commissioner of Income Tax (appeals) overlook the fact that I am resident tribal of Arunachal Pradesh and my income from contract was arises in Arunachal Pradesh. Therefore, entire income was exempt u/s 10(26) of I.T. Act and income was not taxable in year 2018 -19*

*3. That I have not got opportunities to explain difference in turnover as appear between I.T. Return and in 26AS statement amount to Rs 56,10,541/- which was arises due to value of new vehicle of Rs 26,70,500/- as appear in 26AS and contract value of Rs 29,30,941/- as appear in 26AS,*



payment of which not received in this year and received in next financial year therefore not accounted in this year. As such addition to my income was not correct, liable to be deleted.

I pray you to allow me to modify above ground and add further ground as and when require before completing the hearing.”

2.1. The assessee has filed revised grounds of appeal which are as under:

“1. That the learned commissioner of Income tax (appeals) and assessing officer has not sended notice and requirement on my mail nor sent notice by speed post and nor sended message on my registered mobile number. Therefore, no notice was served to me and both authority has not sended order passed on my mail or by speed post and not given message on my registered mobile as such no notice was serve to me.

Both authority had posed notice on my PAN in Income Tax portal and my PAN was managed by my accountant who has not inform about notice and order passed by Income Tax Authority. As such I have not got opportunities to submit required documents. Therefore, order passed by Learner commissioner of Income Tax (appeals) was bad in law and liable to be quest.

2. The assessing officer and the commissioner of Income Tax (appeals) overlook the fact that I am resident tribal of Arunachal Pradesh and my income from contract was arises in Arunachal Pradesh. Therefore, entire income was exempt u/s 10(26) of I.T. Act and income was not taxable in year 2018 -19.

3. That I have not got opportunities to explain difference in turnover as appear between LT. Return and in 26AS statement amount to Rs 56,10,541 which was arises due to value of new vehicle of Rs 26,70,500 as appear in 26AS and contract value of Rs 29,30,941 as appear in 26AS was not included in total turnover due to oversight.

The total value of contract Rs.29,30,941/- cannot be income of assessee only 10% of Rs.29,30,941/- i.e. Rs.2,93,094/- will be income from this contract.

As such total income of assessee will be as follows:-

Net income as per return:	97,29,438/-
Add: 10% of contract value Rs.29,30,041/-	2,93,094/-
Total :	1,00,22,532/-

**Less :** Income Exempt u/s. 10(26) : Income exempt claim in return:

Income exempt to be claimed u/s. 10(26):	97,29,000/-
	2,93,094/-
	1,00,22,094/-

**Taxable Income:**

**Rs.438/-**

I pray you to allow me to modify above ground and add further ground as and when require before completing the hearing.”



3. Brief facts of the case as stated in the revised statement of facts are as under:

*"I Tarem Darang, S/o Late Takit Darang resident of village Mirbuk, P.O. - Pasighat, District - East Siang (Arunachal Pradesh). I am resident Tribal of Arunachal Pradesh. Schedule Tribe Certificate was issue by Additional Deputy Commissioner of East Siang, District -Pasighat No. ST/PSG - 5202 dated 04/10/2017 Copy enclosed here with in paper book Page No. 1 and Permanent residential certificate was issued by Add. Deputy Commissioner of Ease Siang, District - Pasighat No. JSK/38.77 DATED 27/09/2017. Copy of which enclosed here with in paper book Page No. 2.*

*That I was Carrying Construction Contract business under the name Style Agam Construction during Financial Year 2017-2018. During the year I was having income of contract only in Arunachal Pradesh therefore my income was exempt u/s 10(26) of I.T. Act.*

*I am not expert in Income Tax and computer operation and unable to manage my PAN in Income Tax portal. Therefore, I engaged accountant to file my Income Tax return and he filled my Income Tax return on 25/10/2018 declaring Income of Rs 438/- and Exempt Income of Rs 97,29,000 acknowledgement No. 345876771251018 while processing this return exempt income was made taxable income and income assessed at Rs 97,29,428 due to technical glitch.*

*After that I filled rectification return on 17/12/2019 (Acknowledgement No. 273131471171219) and Income Tax Office ward - I, Itanagar passes rectification order on 28/02/2020 and determined income of Rs 428. Then my accountant and my self was in belief that my return was accepted by department.*

*After that my accountant not checked portal but National E-Assessment Centre, Delhi issued notice for the Assessment Year U/s 142(1) on 24/11/2020 with requirement to file detail on before 09/12/2020. That faceless authority has sent notice in my pan on Income Tax portal but not sended notice on my mail, nor sent notice U/s 142(1) by speed post not sent message on my registered mobile phone.*

*Thus it is clear that no proper notice was served to me for Assessment Year 2018 - 2019 by Faceless National E-Assessment Centre, Delhi.*

*That National E-Assessment Centre, Delhi passed order u/s 143(3) ordered on 23/04/2021 and posted in my Pan on Income Tax Portal.*

*After that my auditor informed me about order passed by faceless Authority. Than I have changed my accountant and handed over my case to Mr. Dharmendra Kumar Rai, to file appeal he then files appeal before the commissioner of Income Tax (appeals) on 14/09/2021 and after that he left*



for his native place Barharwa Mahanad, Bakarpur Jagat East Champaran Bihar without informing me.

He returns to Dibrugarh on 10th December 2024 after that he checked my Pan in Income tax portal than he informed me that the Commissioner of Income Tax(appeals) has passed order and dismiss my appeal. In this connection, he confirm all fact and file affidavit. Copy of which enclosed herewith].

That difference in my Income tax return turnover Rs 10,13,53,893 and figure in 26AS Rsl 0,69,55,524 was of Rs 56,01,5411- which was due to fact that in 26AS T.C.S was collected on purchase of vehicle of Rs 26,70,600 and value of work contract of Rs 29,30,941 work of Executive Engineer Rural Works Division which was not included in part of turnover due to oversight. In turnover vehicle value Rs 26,70,600 cannot be included as it is fixed assets and not part of my turnover and contract payment of Rs 29,30,941 was not included due to oversight but total value cannot be income of assessee only 10% of the value of contract will be income of the year.

I have not claim T.D.S. of contract Value Rs 29,30,941 in my I.T. Return, Details of which as follows:

Total T.D.S. + T.C.S as per 26ASRs 19,50,930

Total T.D.S. Claim in IT Return Rs 18,92,311

**Tds Not Claim Rs. 58,619**

As such T.D.S Rs 58,619 on contract value of Rs 29,30,941 was not claimed in I.T. Return as in total turnover the value of contract Rs 29,30,941 was not included

The value of vehicle cannot be part of turnover Rs 26,70,600

Value of contract not included due to oversight of accountant. Rs 29,30,941

Rs 56,01,541

Therefore, my income of this year will be as follows:-

The total value of contract Rs.29,30,941/- cannot be income of assessee only 10% of Rs.29,30,941/- i.e. Rs.2,93,094/- will be income from this contract.

As such total income of assessee will be as follows:-

Net income as per return : Add: 10% of contract value Rs.29,30,041/- -97,29,438/-

2,93,094/-

Total :

1,00,22,532/-

Less : Income Exempt u/s. 10(26) : Income exempt claim in return :

97,29,000/-

Income exempt to be claimed u/s. 10(26) :

2,93,094/-

**Taxable Income as disclosed in**

1,00,22,094/-

**I.T. Return filed on**

**Rs.438/-**

4. The assessee has also filed written submission which is as under:

“I, Taream Darang, S/o Late Takit Darang resident of village Mirbuk, P.O. - Pasighat, District - East Siang (Arunachal Pradesh). I am resident Tribal of Arunachal Pradesh. Schedule Tribe Certificate was issue by Additional Deputy Commissioner of East Siang, District -Pasighat No. ST/PSG - 5202



dated 04/10/2017 Copy enclosed here with in paper book Page No. 6 and Permanent residential certificate was issued by Add. Deputy Commissioner of Ease Siang, District - Pasighat No.JSK/3877 DATED 27/09/2017. Copy of which enclosed here with in paper book Page No. 7.

That I was Carrying Construction Contract business under the name Style Agam Construction during Financial Year 2017-2018. Copy of Trade Licence enclosed herewith Page No.8 & 9. During the year I was having income of contract only in Arunachal Pradesh therefore my income was exempt u/s 10(26) of I.T. Act.

I am not expert in Income Tax and computer operation and unable to manage my PAN in Income Tax portal. Therefore, I engaged accountant to file my Income Tax return, he filled my Income Tax return on 25/10/2018 declaring Income of Rs 428 and Exempt income of Rs 97,29,000 acknowledgement No.345876771251018. Copy enclosed herewith Page No.58 to 107 while processing this return exempt income was made taxable income and income assessed at Rs 97,29,428 due to technical glitch. [Copy of processing meet u/s. 143(1) enclosed herewith]. Page No. 52 to 57. After that I filled rectification return on 17/12/2019 (Acknowledgement No. 273131471171219), copy of which enclosed herewith Page No.111 to 158 and Income Tax Office ward - I, Itanagar passes rectification order on 28/02/2020 and determined income of Rs 428/- [Copy of assessment order enclosed herewith] Page No. 108 to 116 Then my accountant and my self was in belief that my return was accepted by department.

After that my accountant not checked portal but National E-Assessment Centre, Delhi issued notice for the Assessment Year U/s 142(1) on 24/11/2020 with requirement to file detail on before 09/12/2020.

That faceless authority has sended notice in my pan on Income Tax portal but not sended notice on my mail, nor sended notice U/s 142(1) by speed post nor sended message on my registered mobile phone as require as per Sec 144B(b) clause II which stated as follows:-

Sec 144B(b) clause (ii) state as follows: -

- a) Placing an authenticated copy thereof in the assessee's registered account; or
- b) Sending an authenticated copy thereof to the registered e-mail address of the assessee or his authorised representative; or
- c) Uploading an authenticated copy on the assessee's Mobile App, and followed by a real time alert.

Then my accountant reply to notice after that he left to me and went to his native place. I was sure that my return income was accepted by department as next notice u/s. 142(1) was issued on 12/03/2021 in portal not sended in mail or on my mobile. Therefore, I was unable to reply as my accountant left me and I am not knowing to operate computer and Income Tax Portal.



Thus it is clear that no proper notice was served to me for Assessment Year 2018 - 2019 by Faceless National E-Assessment Centre, Delhi.

That National E-Assessment Centre, Delhi passed order u/s 143(3) ordered on 23/04/2021 and posted in my Pan on Income Tax Portal.

After that my auditor informed me about order passed by faceless Authority. [Copy of order enclosed herewith Page No.43 to 49

Than I have changed my accountant and handed over my case to Mr. Dharmendra Kumar Rai, to file appeal he then files appeal before the commissioner of Income Tax (appeals) on 14/09/2021, Copy of Form 35 along with ground of appeal and statement of fact enclosed herewith Page No.35 to 42 and after that he left for his native place Barharwa mahanad, Bakarpur Jagat East Champaran Bihar without informing me. He has filled affidavit in this connection. Copy of Affidavit enclosed herewith Page No.163 to 165

He returns to Dibrugarh on 10<sup>th</sup> December, 2024 after that he checked my Pan in Income tax portal than he informed me that the Commissioner of Income Tax(appeals) has passed order and dismiss my appeal.

That difference in my Income tax return turnover Rs. 10,13,53,893/-, (Copy of rectified Income return enclosed herewith) Page No.111 to 159 and figure in 26AS Rs. 10,69,55,524/- was of Rs.56,01,541/- which was due to fact that in 26AS T.C.S. was collected on purchase of vehicle of Rs.26,70,600/- and value of work contract of Rs.29,30,941/- work of Executive Engineer Rural Works Division was appear which was not included in total turnover. Copy of 26AS enclosed herewith.

In turnover, vehicle value Rs.26,70,600/- cannot be included as it is fixed assets and not part of my turnover and contract payment of Rs.29,30,941 was not included due to oversight.

I have not claim T.D.S. of contract Value Rs.29,30,941/- in my I.T. Return.

Total T.D.S. as per 26AS	Rs 19,50,930
Total T.D.S. Claim in IT Return	Rs 18,92,311
Tds Not Claim	Rs 58,619

The value of vehicle cannot be part of turnover Rs 26,70,600

Value of contract Rs.29,30,941/- during the Rs 29,30,941 year not added in total turnover due to oversight.

Rs 56,01,541

That I have not got opportunities to explain difference in turnover as appear between I.T. Return and in 26AS statement amount to Rs.56,10,541/- which was arises due to value of new vehicle of Rs.26,70,500/- as appear in 26AS and contract value of Rs.29,30,941/- as appear in 26AS was not included in total turnover due to oversight.



*The total value of contract Rs.29,30,941/- can not be income of assessee only 10% of Rs.29,30,941/- i.e. Rs.2,93,094/-will be income from this contract.*

*As such total income of assessee will be as follows :-*

<i>Excess Net income as per return :</i>	<i>97,29,438/-</i>
<i>Add: 10% of contract value</i>	
<i>Rs.29,30,041/-</i>	<i>2,93,094/-</i>
<i>Total :</i>	<i>1,00,22,532/-</i>
<i>Less : Income Exempt u/s. 10(26) : Income exempt claim</i>	<i>97,29,000/-</i>
<i>in return : Income exempt to be claimed u/s. 10(26) :</i>	<i>2,93,094/-</i>
	<i>1,00,22,094/-</i>
<i>Taxable Income :</i>	<i>Rs.438/-</i>

*From the above detail value of vehicle Rs.26,70,500/- can not be part of total turnover and can not be part of income and total contract value Rs.29,30,941/- can not be my income only net income from contract will be my income which I have taken 10% i.e. Rs.2,93,094/- and then income will be exempt u/s. 10(26). Therefore taxable income will be Rs.438/- .”*

5. None appeared on behalf of the assessee and the case was heard with the assistance of the Ld. DR. It was considered on the facts of the case that another opportunity may be provided and the matter may be remanded to the Assessing Officer (hereinafter referred to as Ld. 'AO') as no compliance could be made by the assessee and the submissions made and the claim that the assessee has sufficient evidence for the relief claimed need to be verified.

6. Since there was no proper compliance before both the Ld. AO as well as the Ld. CIT(A), in the interest of justice and fair play it was considered appropriate to set aside the case before the Ld. AO so that proper opportunity of being heard may be provided. Hence, after examining the facts of the case, we deem it appropriate to set aside the order of the Ld. CIT(A) as well as the order of the Ld. AO and remit the matter back to the Ld. AO for making the reassessment *de novo*. Needless to say, the assessee shall be given a reasonable opportunity of being heard to make any further submission it wants to make in



support of its grounds of appeal and shall not seek unnecessary adjournments. Accordingly, the grounds taken by the assessee in his appeal are allowed for statistical purposes.

7. In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

**Order pronounced on 15<sup>th</sup> September, 2025 under Rule 34(4) of the Income Tax (Appellate Tribunal) Rules, 1963.**

*Sd/-*

**[Manomohan Das]**  
Judicial Member

*Sd/-*

**[Rakesh Mishra]**  
Accountant Member

Dated: 15.09.2025

*Bidhan (Sr. P.S.)*



*Copy of the order forwarded to:*

1. **Tarem Darang, E-18, Tigra Mirbuk, East Siang, Arunachal Pradesh, 791102.**
2. **ITO, Ward-Itanagar.**
3. CIT(A)-NFAC, Delhi.
4. CIT-
5. CIT(DR), Guwahati Benches, Guwahati.
6. Guard File.

*// True copy //*

By order

Assistant Registrar  
ITAT, Kolkata Benches  
Kolkata