

**IN THE INCOME TAX APPELLATE TRIBUNAL  
JABALPUR BENCH, JABALPUR  
(Through virtual mode)**

**BEFORE SH. KUL BHARAT, VICE PRESIDENT  
AND  
SH. NIKHIL CHOUDHARY, ACCOUNTANT MEMBER**

ITA No.7/JAB/2025  
A.Y. 2020-21

Sandeep Kumar Singh, B. 8/116, Sect. 15, Nigahi Colony, Nigahi, Singrauli	vs.	Commissioner of Income Tax (Appeals)
<b>PAN:BVIPS2456Q</b>		
(Appellant)		(Respondent)

Assessee by:	Sh. Anoop Kumar Vishwakarma, Adv
Revenue by:	Sh. N.M. Prasad, Sr. DR
Date of hearing:	20.08.2025
Date of pronouncement:	30.09.2025

**ORDER**

**PER NIKHIL CHOUDHARY, A.M.**

This is an appeal filed by the assessee against the orders of the Id. CIT(A), NFAC dated 30.09.2024, wherein the Id. CIT(A) has dismissed the appeal of the assessee against the orders of the Id. AO dated 23.09.2022, passed under section 144 of the Income Tax Act, 1961. The grounds of appeal are as under:-

*"1. Because, the order of learned Assessing Officer as well as the The learned CIT(Appeals) is based on Incorrect Revised I.T. Return.*

*2. Because, the Income Offered u/s. 56 and Deduction Claimed u/s. 57 of the Income Tax in Revised LT. Return does not relates to the assessee.*

*3. Because, on the facts and circumstances of the case and in law, the learned Assessing Officer and the learned CIT(Appeals) has erred in making disallowance / addition of Rs.51,42,446/-.*

*4. BECAUSE, the learned CIT(Appeals) has erred in facts in giving finding that "Entire TDS credit of Rs.81,729/- relatable to total receipts of Rs.56,61,867/- (Rs.55,09,367 + Rs.1,52,500) is claimed in revised return. Thus, it is clear that whatever income admitted in revised return is not randomly admitted but based on 16A certificate issued by deductor M/s GMR Infrastructure Ltd.*

5. *Because the assessee must be given a further opportunity to justify its case before the Final Fact-Finding Authority.*
6. *BECAUSE, the appellant craves leave to add, alter or amend any ground of appeal raised above at the time of hearing."*

2. The facts of the case are that the assessee filed a return of income on 10.01.2021 declaring a total income of Rs. 4,99,530/-. Thereafter, the assessee revised his original return of income on 30.03.2021 declaring a total income of Rs. 4,97,420/-. The case of the assessee was selected for, 'limited scrutiny' on account of claim of deduction from income from other sources. The ld. AO records that he issued several notices to the assessee to which the assessee did not respond and therefore, a notice was physically served upon the assessee through the verification unit and speed post service of India Post. On going through the return of income, the ld. AO observed that the assessee had shown income from other sources at Rs. 55,09,367/- and claimed a deduction under section 57 of Rs. 51,52,446/-. The assessee had not filed any reply explaining the nature of the deduction under section of Rs. 51,52,446/- and hence the ld. AO opined, that he could not ascertain the genuineness of the said deduction. Consequently, he disallowed the amount of Rs. 51,52,446/- claimed as deduction and added the same back to the income of the assessee. For the same, he quoted from the provisions of section 58 and concluded that the deduction claimed, had to be shown to not fall under the conditions spelt out in that section. Since, the assessee had not responded, therefore he had incorrectly claimed the deduction under section 57.

3. Aggrieved by the said additions made by the ld. AO, the assessee went in appeal to the ld. CIT(A). The ld. CIT(A) records that he issued four notices to the assessee to submit a response but none of them were responded to. Therefore, he decided to dispose the case on merits basing his orders on the grounds of appeal, the statement of facts and the assessment order / other records, that were assessable. The ld. CIT(A) recounted the order of the AO and then referred

to the submissions made by the assessee in his statement of facts. In the same, the assessee had submitted that he could not present its submissions prior to the physical service of notice, because it could not find the notices in his email inbox. However, as soon as he was served with notice in physical mode, he submitted a letter for an adjournment. For certain reasons beyond his control, he could not make compliance thereafter and resultantly an order under section 144 has been passed. It was submitted that the assessee was engaged in making supply of construction and heavy earth moving equipments to various construction and civil engineering companies on rental basis. It earned rental receipts from machineries which were duly furnished under the head, 'income from other sources' in the original tax return filed on 10.01.2021. However, by mistake, the original return filed on 10.01.2021 was revised due to some mischief on the part of his inefficient office staff. It was submitted that there was no receipt of income of Rs. 55,09,367/- as furnished in the revised ITR neither was there any expense of Rs. 51,52,446/- relating to earning that income. Thus, the grounds for assessment was based on the incorrect entries in the revised return and the income and the expenditures reflected in the same did not match with his books of accounts. It was, therefore, prayed that the assessee may be given an opportunity to present the books of accounts so that justice can be done in the present case. The Id. CIT(A) considered the arguments of the assessee and recounted the lack of compliance during the appeal proceedings. The Id. CIT(A) concluded in the original return only receipts to the extent of Rs. 1,52,500/- was received from M/s GMR Infrastructure and the TDS relatable to those receipts was Rs. 30,050/-. However, in the revised return filed, the claim of Rs. 1,52,500/- was claimed as income from business and profession and a further amount of Rs. 55,09,367/- was shown under income from other sources. TDS credit of Rs. 81,729/- relatable to total receipts of Rs. 56,61,867/- was claimed in the revised return. Thus, the Id. CIT(A) observed that whatever income had been admitted in the revised return was not

randomly admitted, but based on the 16A certificate issued by the deductor M/s GMR Infrastructure. The Id. CIT(A) further observed, that the intimation of the revised return had been sent to the designated email address of the assessee and furthermore, a rectification order was also sent to him on 14.02.2022 allowing him TDS credit of Rs. 60,320/- on the basis which he had received a refund. Furthermore, the assessee had failed to prove that the figures in the revised return were based on imagination of some mischievous staff by filing the correct Form 16A and his 26AS statement during the appeal proceedings and in the circumstances, his claim that the revised return was filed due to mischief of certain staff, could not be accepted. Since, the onus was on the assessee to establish with evidence, the deduction claimed by him in the return of income, and the assessee had failed to file any evidence in support of the deduction under section 57(iii), the Id. CIT(A) found it fit to dismiss the appeal of the assessee.

4. The assessee is aggrieved at this dismissal of its appeal and has accordingly come before us. Sh. Anoop Kumar Vishwakarma, Advocate (hereinafter referred to as the Id. AR) submitted that the assessee was unable to make compliance during the assessment proceedings, because the assessee was not in the habit of checking his portal but once the notice under section 144 had been served upon the assessee, he had sought an adjournment, so that he could prepare the replies, but due to certain unforeseen circumstances, these replies could not be submitted. In the meanwhile, the order came to be passed. With regard to non-compliance before the Id. CIT(A), it was submitted that all the notices had been issued online and since the assessee was not well-versed with computers, he could not keep track of his appeal proceedings. It was submitted that the assessee was maintaining books of accounts and in the statement of facts submitted to the Id. CIT(A), he had expressed a desire to produce these books of accounts to demonstrate that the entries in the revised

return were actually not existing. Therefore, he prayed that the matter may kindly be restored to the ld. AO so that the assessee could explain how the addition was not required in its case.

5. On the other hand, Sh. N.M. Prasad, Sr. DR (hereinafter referred to as the ld. DR) pointed out that the assessee had been non-compliant both before the ld. AO and the ld. CIT(A) and had no real explanation for his negligence towards income tax matters. The ld. CIT(A) had brought out how this submission regarding his mischievous staff filing incorrect revised return was not fit to be believed and the ld. Sr. DR therefore, argued that the addition made by the ld. AO and sustained by the should be confirmed.

6. We have duly considered the facts and circumstances of the case. We observe that primarily due to the fact that the assessee had not made compliance before the lower authorities, he has not been heard on the issue of how the amounts reflected in the revised return are not assessable to tax in his hands. Thus, the orders of the lower authorities had been passed *ex parte* and therefore, in the interest of justice, we deem it fit to restore the matter back to the file of the ld. AO, so that the assessee may make its submissions before the ld. AO, who may thereafter consider the same and pass a fresh order in accordance with law.

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

Order pronounced on 30.09.2025 in the open Court.

**Sd/-**

**[KUL BHARAT]  
VICE PRESIDENT**

DATED:30/09/2025

Sh

**Sd/-**

**[NIKHIL CHOUDHARY]  
ACCOUNTANT MEMBER**

Copy forwarded to:

1. Appellant –
2. Respondent –
3. CITDR , ITAT,
4. CIT,
5. The CIT(A)

By order  
Sr. P.S.