

आयकर अपीलीय अधिकरण, राँची न्यायपीठ, राँची

IN THE INCOME TAX APPELLATE TRIBUNAL RANCHI BENCH, RANCHI

BEFORE SHRI GEORGE MATHAN, JM & SHRI RATNESH NANDAN SAHAY, AM

आयकर अपील सं./ITA No.186 to 192/RAN/2024

(निर्धारण वर्ष / Assessment Years :2015-2016 to 2021-2022)

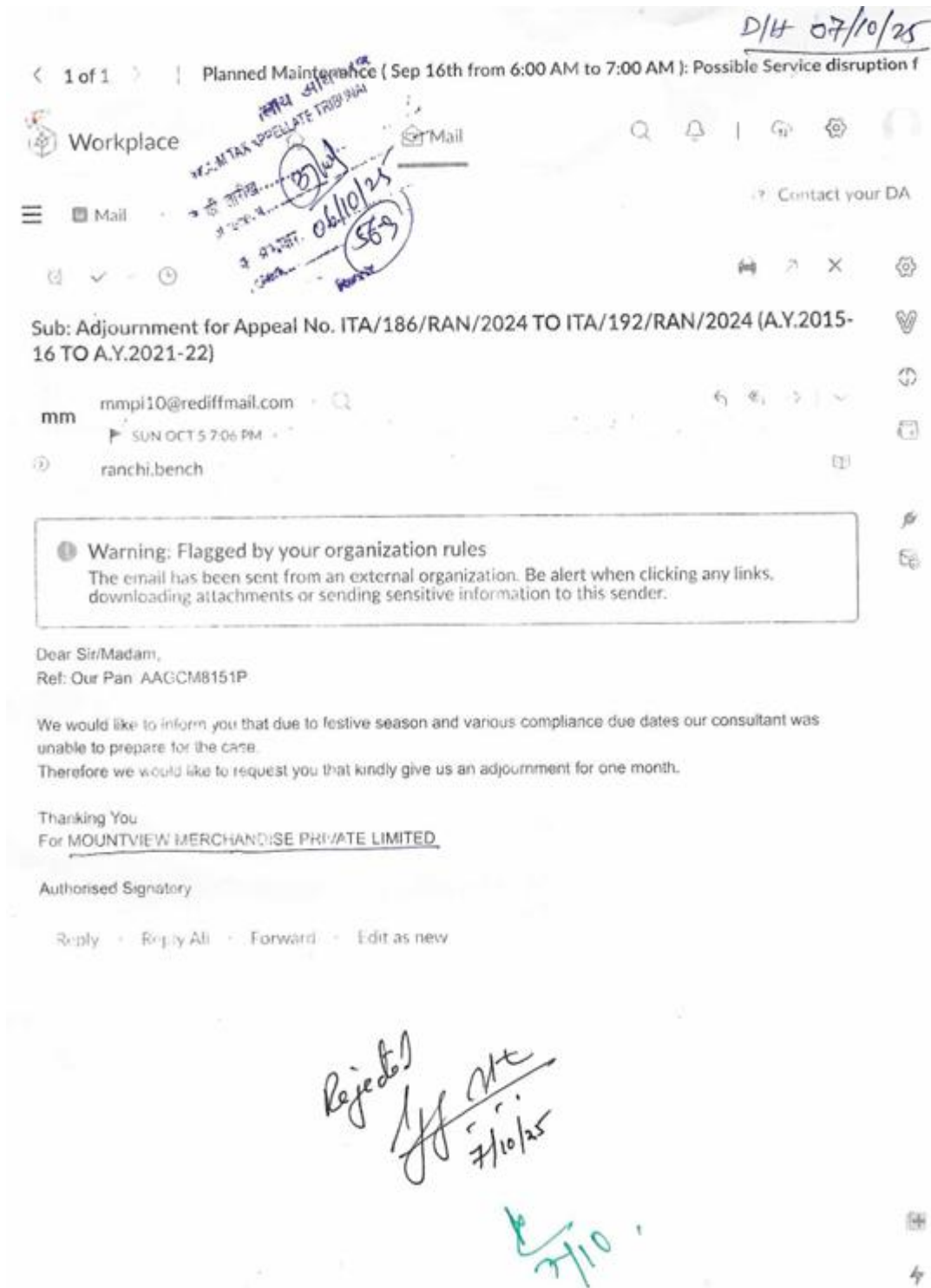
ACIT, Central Circle, Dhanbad	Vs.	Mountview Merchandise Pvt Ltd 1 st Floor, Room No.126, 27, Weston Street, Kolkata-700012
स्थायी लेखा सं./PAN No. : AAGCM 8151 P		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
राजस्व की ओर से /Revenue by	:	None
निर्धारिती की ओर से /Assessee by	:	None
सुनवाई की तारीख / Date of Hearing	:	07/10/2025
घोषणा की तारीख/ Date of Pronouncement	:	07/10/2025

आदेश / ORDER

Per Bench :

These are the appeals filed by the revenue against the separate orders passed by the Id. CIT(A), Patna-3, dated 16.02.2024 & 23.02.2024 for the assessment years 2015-2016, 2016-2017, 2017-2018, 2018-2019, 2019-2020, 2020-2021 & 2021-2022, respectively.

2. The assessee has filed an adjournment application for all the years under consideration stating therein as follows :-



3. No authorized signatory name nor details have been provided in the said adjournment application. It must be mentioned here that there is no Vakalatnama of any authorized representative of assessee has been filed in the said cases. The adjournment application being bald, the same is rejected.

4. The Id. CIT-DR also sought adjournment in these cases on the following grounds :-


GOVERNMENT OF INDIA
OFFICE OF THE COMMISSIONER OF INCOME-TAX (APPEALS)-3, PATNA
3rd Floor, Lok Nayak Jai Prakash Bhawan, Fraser Road, PATNA

F.No. CIT(A)-3/Pat/Misc./2025-26/ 474 Dated, 03rd October, 2025

To,

The Hon'ble Members,

ITAT, Ranchi Bench,

Ranchi

Kind atten: The Registrar, ITAT, Ranchi Bench, Ranchi

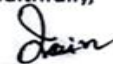
Sirs,

Sub: Request for adjournment on administrative grounds:

As per order of Pr. Chief Commissioner of Income-Tax (B&J), Patna dated 26.09.2025, I have been directed to perform duty as CIT(DR) from 06.10.2025 to 10.10.2025 on rotational basis. In the following cases appeal orders have been passed by this office. In some cases, appeals of the same assessee's are pending with the undersigned for other assessment years. Hence, these cases cannot be argued by the undersigned. A short adjournment of 10 days may please be granted so that another CIT (DR) may attend to these cases.

Encl: List of cases.

Yours faithfully,



(Rajib Jain)

Commissioner of Income-Tax (Appeal)-3
Patna

5. The number of cases posted during the week is nearly 250, out of the same, on daily basis, nearly in 72 to 75% of the cases, adjournments are being sought. As the Bench was constituted and the same was also intimated much in advance and the adjournment has been sought in the last minute, therefore, the adjournment applications are being rejected.

6. It may also be worthwhile to mention here that another reason given by the Id. CIT-Departmental Representative for adjournment is that in some of the appeals, orders have been passed by the office of the impugned CIT-DR personally. Here, it is to be mentioned that in respect of the orders of the Id. CIT(A), which have been challenged by the revenue, it can be said

that it would be difficult for the Id. CIT-Departmental Representative to defend such orders, in so far as he would be arguing against his own orders. But in such cases, where the orders have been passed against the assessee and the assessee is in appeal, we find no reason as to why the Id. CIT-DR would not be able to defend his own orders. In any case orders have been issued against the assessee. When this was put to the Id. CIT-DR, it was a submission that should the Tribunal pass an order reversing the order of Id. CIT(A), he could be questioned under administrative provisions. This does not stand to be a reason, in so far as the appeal provisions have been provided by the statute. It is human to err. If there is no order passed by the Assessing Officer, then obviously post of CIT(A) is required and if there is no order of Id. CIT(A), there is no requirement of the Tribunal so on and so forth. Various stages of appeals are provided so that necessary proceedings are available for both the assessee and the revenue to defend their stands. Decisions taken by the appellate authority as a judicial or quasi judicial forums, are not subject to administrative reviews. Appeal provisions are provided by the statute. It would also be worthwhile to mention here that repeatedly the courts have been holding that the Id. CIT(A) are quasi judicial authorities and no administrative pressure can be put on them to decide any issues in any specific manner. We are of the view that such apprehension of the Id. CIT-DR is unfounded. Consequently, the submission of the Id. CIT-Departmental Representative was that he is recusing from the arguments. His plea is accepted. The

matters are disposed off on merits on the basis of records and documents available before the Tribunal, ex-parte qua the revenue and assessee.

7. A perusal of the order of the Id. CIT(A) shows that the Id. CIT(A) has applied the decision of Hon'ble Supreme Court in the case of Abhisar Buildwell Pvt. Ltd., reported in 452 ITR 212 (SC)/149 taxmann.com 399 (SC) on the ground that there is no incriminating material. A perusal of the assessment orders in all the case shows that the search was conducted in the case of M/s Atibir Industries Company Limited on 17.03.2021 and information has been obtained in the course of search and in the connected searches. Subsequently, the assessment has been done u/s.153A of the Act. A perusal of the grounds raised by the revenue shows that the incriminating material in the form of PKRB-05 was found from the office of the Chartered Accountant and that major paper work of the assessee company were executed from the said office premises of the Chartered Accountant. As the incriminating materials have been found at the foundation for the assessment, we are of the view that the findings of the Id. CIT(A) that no incriminating material have been found or used in the impugned appeals, no more survives. Consequently, the order of the Id. CIT(A) in all the impugned appeals stands reversed.

8. Since there is no adjudication of the issues on merits by the Id. CIT(A), in the interest of justice, the issues in all the appeals are restored to the file of the Id. CIT(A) for readjudication afresh on merits after granting the assessee adequate opportunity of being heard. The findings of the Id.

CIT(A) applying the principle laid down by the Hon'ble Supreme Court in the case of Abhishar Buildwell Pvt. Ltd., referred to supra, stands reversed.

9. In the result, all the appeals of the revenue are partly allowed for statistical purposes.

Order dictated and pronounced in the open court on 07/10/2025.

Sd/-
(RATNESH NANDAN SAHAY)
लेखा सदस्य / ACCOUNTANT MEMBER

Sd/-
(GEORGE MATHAN)
न्यायिक सदस्य / JUDICIAL MEMBER

राँची Ranchi; दिनांक Dated 07/10/2025

Prakash Kumar Mishra, Sr.P.S.

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant- .
2. प्रत्यर्थी / The Respondent-
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, राँची / DR, ITAT, Ranchi
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

(Senior Private Secretary)
आयकर अपीलीय अधिकरण, राँची / ITAT, Ranchi