

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 Nos.322 to 325/RAN/2016

(निर्धारण वर्ष / Assessment Year :2007-2008 to 2010-2011)

M/s Ekka Construction (P) Ltd. Kajribar, Patartanr, Simdega, Jharkhand-835223	Vs.	DCIT, Circle-1, Ranchi
स्थायी लेखा सं./PAN No. : AABCE 6018 J		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

AND

आयकर अपील सं./ITA Nos.337 to 341/RAN/2016

(निर्धारण वर्ष / Assessment Year :2006-2007 to 2010-2011)

Sri Anosh Ekka Kajribar, Patartanr, Simdega, Jharkhand-835223	Vs.	DCIT, Circle-1, Ranchi
स्थायी लेखा सं./PAN No. : AAGPE 7538 L		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

AND

आयकर अपील सं./ITA Nos.342 to 344/RAN/2016

(निर्धारण वर्ष / Assessment Year :2006-2007 to 2008-2009)

Smt. Menon Ujjana Ekka Kajribar, Patartanr, Simdega, Jharkhand-835223	Vs.	DCIT, Circle-1, Ranchi
स्थायी लेखा सं./PAN No. : AAGPE 7539 L		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

निर्धारिती की ओर से /Assessee by	:	Shri Devesh Poddar, Advocate
राजस्व की ओर से /Revenue by	:	Shri Rajib Jain, CIT-DR
सुनवाई की तारीख / Date of Hearing	:	08/10/2025
घोषणा की तारीख/Date of Pronouncement	:	08/10/2025

आदेश / O R D E R

Per Bench :

These twelve appeals are filed by the three different assesseees against the separate orders passed by the Id. CIT(A), Ranchi, both dated 01.09.2016 for the assessment year 2006-2007, 2007-2008, 2008-2009, 2009-2010 & 2010-2011, respectively.

2. As all the appeals are interconnected, therefore, they are being disposed off by this common order.
3. Ld. CIT-DR has filed an adjournment letter in the cases of Shri Anosh Ekka and Smt. Menon Ujjana Ekka, on the grounds which reads as follows:-



To,

The Assistant Registrar
ITAT Ranchi Bench,

Sir,

Subject: Request for adjournment of hearing fixed on 08.10.2025-reg-

The following Case has been fixed for hearing on 08.10.2025 at ITAT Ranchi, Bench.

S.No	Cause list Sl No	Appeal No	AY	Name of the Assessee
01	05	ITA 337/RAN/2016	2006-07	[A] SHRI ANOSH EKKA
02	06	ITA 338/RAN/2016	2007-08	[A] SHRI ANOSH EKKA
03	07	ITA 339/RAN/2016	2008-09	[A] SHRI ANOSH EKKA
04	08	ITA 340/RAN/2016	2009-10	[A] SHRI ANOSH EKKA
05	09	ITA 341/RAN/2016	2010-11	[A] SHRI ANOSH EKKA
06	10	ITA 342/RAN/2016	2006-07	[A] SMT MENON UJJANA EKKA
07	11	ITA 343/RAN/2016	2007-08	[A] SMT MENON UJJANA EKKA
08	12	ITA 344/RAN/2016	2008-09	[A] SMT MENON UJJANA EKKA

This is to bring to your kind notice that AO has not been provided case records in above mentioned case which was required by this office, Ranchi. In this regard, e-mail sent to the AO on 03.10.2025 to submit case records on or before 06.10.2025 by evening, but till date no case records have been submitted by the AO.

The CIT. DR. has directed to request to the Hon'ble Members, ITAT Bench, Ranchi for adjournment of the above cases. Accordingly, your kind honour is requested to kindly be adjourned the cases for hearing on any other suitable date.

Yours faithfully

(Rizwanur Rahman) ITO

O/o the Pr. Commissioner of Income Tax (in situ) cum
Commissioner of Income Tax (DR) ITAT, Ranchi

4. It was submitted by the Id. CIT-DR that the records in all the cases were required to be called for and the Id CIT-DR has called for the records only on 03.10.2025 and till date the records have not come.

5. Here it is pertinent to note that these appeals are relating to the year 2016 and they have been pending for so many years. We are now in 2025. These appeals had been posted on multiple occasions being six times before the Tribunal went into the online mode and nine times after the Tribunal has gone into the online mode. Till now, nobody has thought of calling for the records. Only now the records have been sought for. The reasons given by the Id. CIT-DR for the purpose of seeking adjournment is not found to be substantiated and consequently the adjournment request, as made by the Id. CIT-DR, is denied and the appeals are being heard on merits.

6. It was the submission of the Id. AR on behalf of the assessee that the assessments in the case of Shri Anosh Ekka for the assessment years 2006-2007 to 2009-2010 are reopened assessment and in the case of Smt. Menon Ujjana Ekka for the assessment years 2006-2007 to 2008-2009 the assessments are reopened assessments. It was the submission that in the case of M/s Ekka Constructions Pvt. Ltd. for the assessment years 2007-2008 to 2010-2011 and in the case of Shri Anosh Ekka for the assessment year 2010-2011, these are regular assessments u/s.143(3) of the Act.

7. Ld. AR drew our attention to the reasons recorded in the case of Shri Anosh Ekka for the assessment year 2006-2007 and Smt. Menon Ujjana Ekka for the assessment year 2006-2007, which reads as follows :-

SHRI ANOS EKKA,
Vill-Karjibar, Patartand,
Simdega, Jharkhand,
A.Y. 2006-07
PAN-AAGPE7538M

12.01.07

Shri Anos Ekka, as per returns of income of A.Y.2006-07 has shown total income of Rs.3,63,110/-. However, as per details/ materials available on record, it is seen that Shri Anos Ekka has made substantial investments in land, building and other assets which are not commensurate to the income shown in return filed. Tax Evasion petitions against the person concerned have been received, alleging substantial Tax Evasion by him, certain media reports are also available indicating the same.

Besides the above, income from the assets as per allegation above, have not been reflected in the return of income for this assessment year.

In view of the above, I have reasons to believe that income chargeable to tax has escaped assessment within the meaning of Section 147 of I.T. Act, 1961. Accordingly, the notice u/s 148 is being issued for compliance within 30 days of receipt of this notice.

Rajeev Kumar
[RAJEEV KUMAR]
Asstt. Commissioner of Income-tax (In-charge)
Circle-1, Ranchi.

[Signature]
Certified to be
true copy

SMT. MENON EKKA,
D/O Sri Ravi Bara,
Kanjibar, Patartand,
Simdega-835215
A.Y. 2006-07
PAN-AAKPE2685B

13.01.07

Smt. Menon Ekka, as per returns of income of A.Y.2006-07 has shown total income of Rs.3,70,647/-. However, as per details/ materials available on record, it is seen that Smt. Menon Ekka has made substantial investments in land, building and other assets which are not commensurate to the income shown in return filed. Tax Evasion petitions against the person concerned have been received, alleging substantial Tax Evasion by him, certain media reports are also available indicating the same.

Besides the above, income from the assets as per allegation above have not been reflected in the return of income for this assessment year.

In view of the above, I have reasons to believe that income chargeable to tax has escaped assessment within the meaning of Section 147 of I.T. Act, 1961. Accordingly, the notice u/s 148 is being issued for compliance within 30 days of receipt of this notice.

Rajeev Kumar
[RAJEEV KUMAR]
Asstt. Commissioner of Income-tax (In-charge)
Circle-1, Ranchi.

19.01.07

In earlier notice issued to the assessee, by error the A.Y. was not mentioned. Rectifying the error, the fresh notice is issued giving the time, accordingly calculated from date of issue.

Hence the fresh notice is issued under section 148 to the assessee through speed post.

Rajeev Kumar
19/01/07

[Signature]
Certified to be
true copy

7. It was the submission that in the other years also the assessee has sought the reasons recorded along with the certified copy of the ordersheet as also approval u/s.151 of the Act.

8. On this point, it was pointed out by the Id. CIT-DR that the counsel on behalf of the assessee has misled the court. He drew our attention to para 3 of the assessment order for the assessment year 2006-2007 in the case of Shri Anosh Ekka where the AO has recorded that after filing of the return the AO has provided a certified copy of the ordersheet to Shri Anosh Ekka containing the reasons recorded.

9. On this point, the Id. AR on behalf of the assessee submitted that it is not in dispute for the assessment year 2006-2007 the reasons have not been provided, in fact it was the submission that the reasons placed before the Tribunal were the reasons provided by the AO for the assessment year 2006-2007. It was the submission that there is no intention for misleading the court as has been stated by the Id. CIT-DR. It was further submitted by the Id. AR that the assessment in the case of M/s Ekka Constructions Pvt. Ltd. as also the assessments in the case of Shri Anosh Ekka and Smt. Menon Ujjana Ekka had been completed by the AO by making substantiate and protective assessments. Certain additions had been made on protective basis in the hands of M/s Ekka Construction Pvt. Ltd. and Smt. Menon Ujjana Ekka and the substantial addition has been made in the case of Shri Anosh Ekka. It was the submission that the Id. CIT(A) gave relief in regard to certain additions and in respect of other additions, the substantial addition has been directed to be made in the hands of Shri Anosh Ekka. It

was the submission that the nature of additions were one unexplained investments in the nature of share capital and secured loans in the case of M/s Ekka Constructions Pvt. Ltd. has been treated as the unexplained investment and unexplained income of Shri Anosh Ekka. The business income of Smt. Menon Ujjana Ekka has been treated as the income from other sources of Shri Anosh Ekka. The unexplained expenditure allegedly of both Anosh Ekka and Smt. Menon Ujjana Ekka was treated as the income from other sources in the case of Shri Anosh Ekka. It was the submission that this whole assessment was on the foundation of tax evasion petition received against Shri Anosh Ekka. It was the submission that the assessee has been asking for the certified copies of the ordersheets and the reasons recorded as also the approval u/s.151 of the Act and the same has not been provided to the assessee. It was the submission that the assessee has asked for the details as early as from the time of filing of the appeals itself in 2016 as it is also one of the grounds before the Tribunal. It was the submission that till date the reasons nor the approval nor the certified copies of the ordersheets have been provided to the assessee.

10. At this point it was informed to the Id.CIT-DR that in view of the decision of the Hon'ble Supreme Court in the case of G.K.N.Driveshafts (India) Ltd., reported in (2003) 259n ITR 19 (SC), the Bench is of the view that the issues in these appeals must be restored to the file of AO in respect of such appeals where the appeals are against reopening of the assessments, so as to provided the assessee with the reasons recorded

and such other details as requested for by the assessee and take the objections of the assessee to readjudicate the issues on the basis of evidence as are available. To this, Id. CIT-DR raised serious objections stating that restoring the issues to the file of Id. AO would nullify the demands and it would cause prejudice to the revenue. It was also submitted by the Id. AR that if the issues are being restored to the file of AO then the legal issues which the assessee proposed to raise should be left open. It is also submitted by the Id. AR that certain additions had been deleted by the Id. CIT(A) and the revenue has filed against the said deletion of additions, those appeals have also been dismissed by the Tribunal on account of tax effect. It was the submission that those additions which have already been deleted by the Id. CIT(A), should not be the subject matter of the set aside assessments. To this, it was informed to the Id. AR that such a prayer cannot be acceded to that the issues which have been deleted by the Id. CIT(A) would not be examined by the AO, insofar as if there is a link between the issues which have been deleted by the Id. CIT(A) and which has been sustained by the Id. CIT(A) on account of the deletion, the other balance portion would also get affected. However, his prayer that legal grounds should be left open and live, is acceded to.

11. Having considered the submissions of both the sides and perused the records, at the outset, we are of the view that the assessee does have shown a case for providing of the reasons recorded and other connected documents, which have not been provided to the assessee right from 2016. This being so, appeals in the case of Shri Anosh Ekka for the assessment

years 2006-2007, 2007-2008, 2008-2009 & 2009-2010 as also the appeals in the case of Smt. Menon Ujjana Ekka for the assessment years 2006-2007, 2007-2008 & 2008-2009, being the appeals in which the issue of reopening has been challenged, are restored to the file of AO for readjudication after granting the assessee copies of reasons recorded as also the certified copy of the ordersheets and the approval u/s.151 of the Act and after granting the assessee adequate opportunity of being heard to represent its case. Should the assessee file its objections against the reopening, then the AO shall also consider and consider the same before proceeding with the assessments in the light of the decision of the Hon'ble Supreme Court in the case of GKN Driveshafts (India) Ltd., referred to supra.

12. In regard to the appeals of the assessee M/s Ekka Construction Pvt. Ltd. for the assessment year 2007-2008, 2008-2009, 2009-2010 & 2010-2011 and appeals of Shri Anosh Ekka for the assessment year 2010-2011, it is noticed that certain additions in the form of share capital and secured loans in the case of M/s Ekka Construction has been treated as unexplained investment and income from other sources as also investments in the case of Shri Anosh Ekka on substantive basis. A perusal of the assessment order shows that in respect of share capital, the issue is mentioned that the share applicant details have not been provided. Similarly in respect of issue of secured loan. The AO shall do the necessary examination and take the stand as to whether the said investments are that of Shri Anosh Ekka and give justifiable reasoning, insofar as there is no

reasons mentioned in the assessment orders which are impugned before us along with the orders of the Id. CIT(A). For these reasons, the issues in these appeals are required to be restored to the file of Id.AO for readjudication afresh after granting assessee adequate opportunity of being heard. Thus, the orders of the Id. CIT(A) in all these appeals are set aside in their entirety and the issues in these appeals are restored to the file of Id. AO for readjudication as per the directions given above and after granting the assessee adequate opportunity of being heard.

13. In the result, all the appeals of the three assesses are partly allowed for statistical purposes.

Order dictated and pronounced in the open court on 08/10/2025.

Sd/-

(RATNESH NANDAN SAHAY)

लेखा सदस्य / ACCOUNTANT MEMBER

Sd/-

(GEORGE MATHAN)

न्यायिक सदस्य / JUDICIAL MEMBER

राँची Ranchi; दिनांक Dated 08/10/2025

Prakash Kumar Mishra, Sr.P.S.

आदेश की प्रतिलिपि अद्योषित/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