

**IN THE INCOME TAX APPELLATE TRIBUNAL,
'C' BENCH, KOLKATA**

**Before Shri George Mathan, Judicial Member
&
Shri Rakesh Mishra, Accountant Member**

**I.T.A. No. 1641/KOL/2025
Assessment Year: 2017-2018**

***Jaydeep Kundu,.....Appellant
Legal Heir of Narayan Chandra Kundu,
C/o. Jaydeep Kundu, Downtown-T4,
Apt. 302, Uniworld City Complex,
New Town, Kolkata-700160, W.B.
[PAN:AUNPK0769K]***

-Vs.-

***Income Tax Officer,.....Respondent
Ward-41(1), Nadia***

Appearances by:

*Shri Sutosom Bhattacharyya, Advocate, appeared on
behalf of the assessee*

*Shri Sandip Sarkar, JCIT, Sr. D.R., appeared on behalf
of the Revenue*

Date of concluding the hearing: October 28, 2025

Date of pronouncing the order: October 28, 2025

O R D E R

Per George Mathan, Judicial Member:-

This is an appeal filed by the assessee against the order of the ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi in Appeal No. NFAC/2016-17/10253576 dated 28th May, 2025 for the assessment year 2017-18.

2. Shri Sutosom Bhattacharyya, Advocate, appeared on behalf of the assessee and Shri Sandip Sarkar, JCIT, Sr. D.R., appeared on behalf of the Revenue.

3. It was submitted by the ld. A.R. that the issue in this appeal is against the action of the ld. Assessing Officer in treating the purchase made by the assessee. It was the submission that the very foundation has been made erroneous. At this point, it was the query of the ld. A.R. as to the order from which the appeal has been filed. It was submitted that the appeal is filed against the order of the ld. CIT(Appeals). The ld. A.R. was further queried as to what the ld. CIT(Appeals) was done in his order, to which he submitted that the ld. CIT(Appeals) has restored the issues to the file of ld. Assessing Officer for re-adjudication. It was the submission of the ld. A.R. that the issue was liable to be adjudicated in so far as the assessee's son had purchased the property.

4. In reply, the ld. Sr. D.R. submitted that the assessee has not represented before the ld. Assessing Officer and has produced evidences before the ld. CIT(Appeals). The ld. CIT(Appeals) should restore the issue to the file of ld. Assessing Officer for re-adjudication.

5. We have considered the rival submissions. The facts in the present case clearly show that the assessee has not represented before the ld. Assessing Officer. Before the ld.

CIT(Appeals), the assessee has produced substantial evidences. The consequence of the evidence being produced was that the ld. CIT(Appeals) has restored the issues to the file of ld. Assessing Officer for examination of the same and re-adjudication. Admittedly it is to be noticed that fresh evidences have been produced before the ld. CIT(Appeals). This is total violation of the provisions of Rule 46A. It is obviously for this reason and in the interest of the assessee's case, that the issues have been restored to the file of ld. Assessing Officer by the ld. CIT(Appeals). It is not, as if the ld. CIT(Appeals) has denied the assessee an opportunity. The ld. CIT(Appeals) has done what is right and in right perspective. This being so, the order of the ld. CIT(Appeals) restoring the issues to the file of ld. Assessing Officer stands confirmed.

6. In the result, the appeal of the assessee stands dismissed.

Order pronounced in the open Court on 28/10/2025.

Sd/-
(Rakesh Mishra)
Accountant Member

Sd/-
(George Mathan)
Judicial Member

Kolkata, the 28th day of October, 2025

*Copies to :(1) Jaydeep Kundu,
Legal Heir of Narayan Chandra Kundu,
C/o. Jaydeep Kundu, Downtown-T4,
Apt. 302, Uniworld City Complex,
New Town, Kolkata-700160, W.B.*

(2) *Income Tax Officer,
Ward-41(1), Nadia*

(3) *CIT(Appeals), NFAC, Delhi;*

(4) *CIT - ;*

(5) *The Departmental Representative;*

(6) *Guard File*

TRUE COPY

By order

*Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha/Sr. P.S.