

IN THE INCOME TAX APPELLATE TRIBUNAL "D" BENCH, KOLKATA

**SHRI SONJOY SARMA, JUDICIAL MEMBER
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**I.T.A. No. 1408/Kol/2025
Assessment Year : 2016-2017
&
I.T.A. No. 1409/Kol/2025
Assessment Year : 2017-2018**

Vikash Mimani,

C/o Motilal Mimani Trikaleshwar,
P.O. Jorethang, Naya Bazar
South Sikkim, Sikkim - 737121
[PAN: AERPM8472P]

..... **Appellant**
vs.

**ITO, Ward – 3(1),
Gangtok**

..... **Respondent**

Appearances by:

Assessee represented by : Dhiraj Lakhotia, AR
Department represented by : S.B. Chakraborty, Sr. DR

Date of concluding the hearing : 10.11.2025
Date of pronouncing the order : 11.11.2025

ORDER

PER SONJOY SARMA, JUDICIAL MEMBER:

These two appeals being ITA Nos. 1408/Kol/2025 and 1409/Kol/2025 have been filed by the assessee against two separate orders of the Commissioner of Income Tax (Appeals) [CIT(A)] for the assessment years 2016–17 and 2017–18 respectively.

2. Since the issues involved in both the appeals are identical except for variation in figures and assessment years, they were heard together and are being disposed of by this consolidated order for the sake of convenience.

3. At the time of hearing, the learned authorised representative of the assessee submitted that there was a delay of 487 days in filing the

aforementioned appeals before the Tribunal. An affidavit explaining the reasons for such delay has been filed. We, after considering the contents of the affidavit and submissions of both sides, we are satisfied that the delay was due to reasonable cause and the same is condoned.

4. First, we take up ITA No. 1408/Kol/2025 – A.Y. 2016–17. In the case of assessee, it was noticed that the assessee had made cash deposits aggregating to ₹4,37,52,752/- in Axis Bank and Union Bank during the year under consideration. However, no return of income was filed by the assessee. Consequently, after obtaining necessary approval, proceedings under Section 147 of the Income-tax Act, 1961 (hereafter “the Act”) were initiated, and notice under Section 148 was issued requiring the assessee to file the return within 30 days. As there was no compliance, notice under Section 142(1) of the Act and thereafter under Section 144 of the Act was issued. Ultimately, the Assessing Officer completed the assessment under Section 144 of the Act, determining total income at ₹35,00,220/-, treating the said deposits as turnover.

5. The CIT(A) dismissed the appeal of the assessee on the ground that the assessee had neither filed the return of income nor paid the amount of advance tax as required under the provisions of Section 249(4)(b) of the Act. Accordingly, the appeal was held to be not maintainable.

6. The assessee is in further appeal before us. It is contended that since the assessment was completed ex parte under Section 144, the assessee did not get a proper opportunity to present his case and produce supporting documents before the Assessing Officer or the CIT(A).

7. We have considered the rival submissions and perused the material available on record. It is observed that the CIT(A) dismissed the appeal solely on the technical ground of non-compliance with Section 249(4)(b), without adjudicating the matter on merits.

8. In the interest of justice and fair play, we are of the view that the assessee deserves one more opportunity to substantiate his claim. Accordingly, we set aside the impugned order of the CIT(A) and remit the matter to the file of the Assessing Officer for fresh adjudication after affording due opportunity of being heard to the assessee. The assessee is directed to fully cooperate and comply with all notices issued by the Assessing Officer without seeking unnecessary adjournments.

9. The facts and issues involved in ITA No. 1409/Kol/2025 are identical to those in ITA No. 1408/Kol/2025. Therefore, following our findings and directions in that appeal, the present appeal is also restored to the file of the Assessing Officer for fresh consideration on similar lines.

10. In the result, both appeals of the assessee are allowed for statistical purposes.

Order pronounced on 11.11.2025

Sd/-
(Rakesh Mishra)
Accountant Member

Sd/-
(Sonjoy Sarma)
Judicial Member

Dated: 11.11.2025
AK, Sr. P.S.

Copy of the order forwarded to:

1. Appellant
2. Respondent
3. Pr. CIT
4. CIT(A)
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches