

IN THE INCOME TAX APPELLATE TRIBUNAL

“PATNA BENCH, PATNA

VIRTUAL HEARING AT KOLKATA

Before Shri Sonjoy Sarma, Judicial Member and Shri Sanjay Awasthi, Accountant Member

I.T.A. No.280/Pat/2023

Assessment Year: 2016-17

The Muzaffarpur Central Cooperative Bank Ltd.....Appellant

Sadar Hospital Road,

Muzaffarpur, Bihar-842001.

[PAN: AABAT7831Q]

vs.

DCIT, Circle-2, Muzaffarpur..... Respondent

Appearances by:

Shri Sanjeev Anwar, AR, appeared on behalf of the appellant.

Shri Ashwani Kr. Singal, Sr. DR, appeared on behalf of the Respondent.

Date of concluding the hearing : January 08, 2025

Date of pronouncing the order : January 15, 2025

आदेश / ORDER

Per Sonjoy Sarma, Judicial Member:

The present appeal has been preferred by the assessee against the order dated 31.08.2023 of the National Faceless Appeal Centre [hereinafter referred to as ‘CIT(A)’] passed u/s 250 of the Income Tax Act (hereinafter referred to as the ‘Act’).

2. Brief facts of the case are that the assessee is a cooperative society and engaged in banking business. For the assessment year 2016-17, the assessee filed its return of income on 15.10.2016 by showing a total income of Rs.65,05,270/-. The case of the assessee was selected for limited scrutiny in terms of guidelines issued by the CBDT vide instruction no.5/2007. Accordingly, notices u/s 143(2) and 142(1) of the Act were issued to the assessee and in response to the said notices, no one turned up before the Assessing Officer. The Assessing Officer therefore passed an order u/s 144 by making certain additions in following manner:

<i>“Total Income as per return as discussed in para 4</i>	<i>Rs.1,05,52,001/-</i>
<i>Add: Disallowance u/s 14A as discussed in para 5</i>	<i>Rs. 3,60,000/-</i>
<i>Floating provision of NPA as per para 6</i>	<i>Rs. 75,00,000/-</i>
<i>Delay in depositing PF as per para 7</i>	<i>Rs. 1,84,530/-</i>
<i>Provision for contingencies</i>	<i><u>Rs. 2,98,122/-</u></i>
	<i><u>Rs.1,88,94,653/-</u></i>

3. Dissatisfied with the above order, the assessee filed an appeal before the ld. CIT(A) but the assessee has failed to appear on three consecutive dates despite serving notices to the assessee. The ld. CIT(A) accordingly passed an order by dismissing the appeal of the assessee by the upholding the order of the Assessing Officer.

4. Aggrieved, the assessee filed the appeal before this Tribunal. Primarily, the ld. AR contended that the appellate order is an ex parte order and the assessee did not get proper opportunity to present its case before the authorities below. He further stated that the assessee is a cooperative society and doing banking business. However due to fault of the engaged counsel, the assessee could not able to represent its case before the authorities below. He, therefore prayed that the assessee may be granted one more opportunity to substantiate its claim before the authorities below.

5. On the other hand, the ld. DR argued that sufficient opportunities have already been provided to the assessee and the assessee failed to respond. Therefore, the order passed by the ld. CIT(A) was justified.

6. We, after hearing the rival submission of the parties and perusing the materials available on record, find that the order of the ld. CIT(A) is ex parte order which is simply upheld the order of the Assessing Officer without examining the merits of the case and the ld. CIT(A) dismissed the appeal of the assessee without going into merits and decided only on the ground of non-compliance on the part of the assessee. We, therefore, find that the dismissal of appeal solely on the procedural ground without examining the merits of the case which is essential u/s 250(6)

of the Act, is not justified. We deem it fit to provide the assessee one more opportunity to substantiate its case to ensure just and fair assessment. We, therefore, remand back the issue to the file of the ld. CIT(A) with a direction to re-examine the case on merits after giving reasonable opportunity of being heard to the assessee to represent its case. We also direct the assessee to sincerely comply with the notices issued and duly participate in the remand proceedings to avoid any further delay.

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

Kolkata, the 15th January, 2025.

Sd/-
[Sanjay Awasthi]
Accountant Member

Sd/-
[Sonjoy Sarma]
Judicial Member

Dated: 15.01.2025.

RS

Copy of the order forwarded to:

1. The Muzaffarpur Central Cooperative Bank Ltd
2. DCIT, Circle-2, Muzaffarpur
3. CIT (A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches