

**IN THE INCOME TAX APPELLATE TRIBUNAL "PATNA BENCH" PATNA**

**SHRI SONJOY SARMA, JUDICIAL MEMBER  
SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER**

**I.T.A. No. 310/Pat/2024  
Assessment Year: 2017-18**

**Dudheshwar Gupta,**  
Piro Bihiya Road, Piro,  
Bhojpur, Bihar - 802301  
[PAN: AOAPG1524P]

..... **Appellant**

**vs.**

**Assistant Commissioner of Income Tax,  
Circle-1, Patna,.**  
Loknayak Bhawan, Dakbanglow Road,  
Bihar - 800001

..... **Respondent**

**Appearances by:**

Assessee represented by : None  
Department represented by : Rinku Singh, CIT-DR

Date of concluding the hearing : 17.12.2024  
Date of pronouncing the order : 19.12.2024

**ORDER**

**PER SANJAY AWASTHI, ACCOUNTANT MEMBER:**

1. In this case, the Registry has pointed out a delay of 37 days in filing of this appeal. The assessee has filed an application for condonation of the said delay as under:

*"We enclose herewith an appeal u/s 253 of the I.T. Act 1961 against the order under section 250 of the Income Tax Act, 1961, relating to assessment year 2017-18 on the 05-12-2023. Through this appeal should have been filed on or before 03/02/2024, but could not be so file as I was Bed ridden due to high fever and I was advised for complete bed rest.*

*We therefore pray that delay in filing the appeal should be condoned and it should be treated as filed within the allowed time.*

*And for this act of kindness, I shall ever pray."*

1.1 Considering the reasons advanced for justifying the delay, the same is condoned and this appeal is admitted for adjudication.

2. In this case, the appeal emanates from the order u/s 250 of the Income Tax Act, 1961 (hereinafter the "Act") dated 05.12.2023 through which an addition of Rs. 5,81,60,640/- made u/s 69A of the Act was affirmed by the Ld. CIT(A) mainly on the ground of non-prosecution before him. Incidentally, the Ld. AO also passed the order u/s 144 of the Act only as the assessee could not make any presentation before him too.

3. Aggrieved with the action of the Ld. CIT(A), the assessee is in appeal before the ITAT, through the following grounds:

*"1) For that the Grounds of Appeal hereto are without prejudice to one another.*

*2) For that in the facts and circumstances of the case Id. CIT (A) is not justified in not giving proper time to substantiate its claim which is violative of principal of natural justice.*

*3) For that the learned CIT(A) is not justified in confirming the addition of Rs. 5,81,60,640/- as unexplained cash credit as u/s 69A of the I.T. Act, 1961. Whenever, the fact is on record that the appellant was engaged in retails business in the name of M/s Sonu Khad Bhandar and Maintained proper books of accounts.*

*4) For that the learned CIT(A) is not justified in confirming the entire addition of Rs.5,81,60,640/- as Ld. A.O. has confirming cash deposit of assesses individual (Prop:-Sonu Khad Bhandar) and co-operative society(Deo Krishak Sawalambi Sahkari Samiti Ltd.) which is arbitrary and unjustified.*

*5) For that the entire assessment order is bad both in law and facts of the case.*

*6) For that the demand made on account of interest u/s 234A, 234B, and 234C is unsustainable in law being mechanical and without the sanction of law.*

*7) For that the initiation of penalty proceedings u/s 271AAC of the I.T. Act, 1961 is arbitrary, unjustified, void, ab-initio and bad in laws.*

*8) For that the initiation of penalty proceedings u/s 272A(1)(d) of the L.T. Act, 1961 is arbitrary, unjustified, void, ab-initio and bad in laws."*

3.1 We have carefully perused the documents before us with the help of Ld. DR and it is evident that the basis for sustaining the impugned addition was non-attendance before the Ld. CIT(A). It is felt that in the interest of substantive justice, this matter deserves to be remanded back

to the file of Ld. AO for fresh adjudication. Needless to say, the assessee would do well to avail of opportunities for presenting his case before the Ld. AO.

4. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the court on 19.12.2024

Sd/-  
**[Sonjoy Sarma]**  
**Judicial Member**

Sd/-  
**[Sanjay Awasthi]**  
**Accountant Member**

Dated: 19.12.2024.  
AK, PS

*Copy of the order forwarded to:*

1. Dudheshwar Gupta
2. Assistant Commissioner of Income Tax, Circle-1, Patna
3. CIT(A)-
4. CIT-
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches