

**IN THE INCOME TAX APPELLATE TRIBUNAL  
PATNA BENCH, VIRTUAL HEARING AT KOLKATA**

**Before**

**SRI SANJAY GARG, JUDICIAL MEMBER  
&  
SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER**

**I.T.A. No.: 4/PAT/2024  
Assessment Year: 2012-13**

**&**

**I.T.A. No.: 5/PAT/2023  
Assessment Year: 2015-16**

**&**

**I.T.A. No.: 6/PAT/2024  
Assessment Year: 2016-17**

**&**

**I.T.A. No.: 7/PAT/2024  
Assessment Year: 2017-18**

**&**

**I.T.A. No.: 412/PAT/2024  
Assessment Year: 2012-13**

**&**

**I.T.A. No.: 413/PAT/2024  
Assessment Year: 2014-15**

**&**

**I.T.A. No.: 414/PAT/2024  
Assessment Year: 2014-15**

**&**

**I.T.A. No.: 415/PAT/2024  
Assessment Year: 2016-17**

**&**

**I.T.A. No.: 416/PAT/2024  
Assessment Year: 2017-18**

***Yashwant Singh***  
***M-52/22A, S. K. Nagar, Patna,***  
***Bihar-800001.***  
***(PAN: ANZPS3081K)***

**.....**

***Appellant***

**Vs.**

***DCIT, Circle-1, Patna***

**.....**

***Respondent***

**Appearances:**

**Appellant represented by:** *Shri K. N. Prasad, Advocate & Shri Vishal Kr. Advocate.*

**Respondent represented by:** *Shri Ashwani Kr. Singal, JCIT*

Date of concluding the hearing : 22.01.2025

Date of pronouncing the order : 22.01.2025

**ORDER**

**Per Bench:**

The captioned appeals for different assessment years have been preferred by the assessee against the separate orders of the Ld. Commissioner of Income Tax (Appeal), National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as Ld. 'CIT(A)'] u/s. 250 of the Income Tax Act, 1961 (hereinafter referred to as the "Act").

2. In ITA Nos. 4,5,6,7 and 413/Pat/2024 are relating to quantum additions made/confirmed by the lower authorities relating to AYs 2012-13, 2015-16, 2016-17, 2017-18 and 2014-15 respectively. ITA Nos. 412, 414, 415 & 416/Pat/2024 are relating to the penalty levied by the Assessing Officer u/s. 271(1)(b)/272A(1)(d) of the Act respectively for non-compliance of the notices issued during assessment proceedings.

3. First, we take up the quantum appeals. The ITA No. 5/Pat/2024, AY 2015-16 is the main case wherein the assessment was framed u/s. 143(3) of the Act. Based on the assessment order passed in ITA No. 5/Pat/2024, the assessments for the AYs 2012-13, 2016-17 and 2014-15 were reopened. However, the assessment for AY 2017-18, though, was a regular assessment u/s. 143(3) of the Act but, the order has been passed on the basis of earlier assessment order for AY 2015-16 only. Therefore, ITA No. 5/Pat/2024 is taken as lead case for the purpose of narration of facts.

4. Brief facts of the case are that the assessee in his return of income had shown agricultural income of Rs. 45 lakh. The Assessing Officer asked the assessee to furnish the requisite details to prove that the assessee has

genuinely shown the aforesaid agricultural income. The assessee furnished certain bills and vouchers and also an affidavit of one Shri Ram Prakash Rai, who confirmed that he had purchased the agricultural produce from the assessee. The Assessing Officer examined the said purchaser on oath, wherein he stated that he had purchased the agricultural produce from the assessee. However, the Assessing Officer was not satisfied with the aforesaid statement given by Shri Ram Prakash Rai and also noted that the said statement was given by Shri Ram Prakash Rai at the instance of the assessee. The Assessing Officer concluded that the assessee had failed to establish that the aforesaid income shown by the assessee was his agricultural income. He, therefore, made the addition of the aforesaid amount of Rs. 45 lakh as income from undisclosed sources. He also reopened the assessment for other assessment years as detailed above and in the reopened assessment proceedings u/s. 147 of the Act, he made the addition in respect of the income shown by the assessee from agricultural activities.

5. Being aggrieved by the aforesaid orders of the Assessing Officer, the assessee preferred appeals before the Ld. CIT(A). However, the Ld. CIT(A) confirmed the additions so made by the Assessing Officer.

6. We have heard the rival contentions and gone through the record. At the outset, the Ld. Counsel for the assessee has submitted that though the assessment was carried out for AY 2015-16 u/s. 143(3) of the Act, however, in relation to the other assessment years except AY 2017-18, the assessments framed are ex parte assessments u/s. 144/147 of the Act.

7. So far as the assessment for the assessment year 2015-16 is concerned, the Ld. Counsel has submitted that the assessee could not furnish his submissions before the Ld. CIT(A) due to illness, resulting into upholding the impugned additions. He has further submitted that the assessee owns 15 acres of agricultural land and that the assessee has been declaring his agricultural income from the last 25 years. That the assessee due to lack of proper advice could not produce all the relevant documents before the

Assessing Officer resulting into the impugned additions made by the Assessing Officer. He has submitted that the assessee may be given an opportunity to produce all the relevant documents including the proof of ownership of agricultural land and also the evidence of carrying out of agricultural activity and also relating to the evidence of production of crops, the quantum of the produce and the agricultural income earned therefrom.

8. The Ld. DR, however, on the other hand, has submitted that the assessee has already been given due opportunity to present his case but the assessee has failed to substantiate his claim with the cogent and convincing evidence.

9. After considering the rival submissions, we are of the view that the assessee has been claiming the agricultural income in his return of income from the last 25 years. The assessee has claimed that he owns 15 acres of agricultural land and further that the assessee can produce all the relevant evidences to prove that the claim of the assessee is genuine and not bogus. We are of the view that the interests of justice will be well served if the assessee is given an opportunity to present his case before the Assessing Officer. Further, we note that except for AY 2015-16, for the other assessments years, the case of the assessee remained unrepresented before the Assessing Officer. Even for AY 2017-18, the Assessing Officer without examining the evidence on the file based his finding mainly on the basis of the assessment order for AY 2015-16 only. Under the circumstances, we are of the view that the matter is required to be examined afresh thoroughly at the end of the Assessing Officer. We, therefore, set aside the impugned order of the Ld. CIT(A) in ITA No. 4,5,6,7 and 413/Pat/2024 and restore the matter to the file of the Assessing Officer for assessment afresh on this issue. Needless to say that the Assessing Officer will give proper and adequate opportunity to the assessee to present his case and furnish the requisite documents and thereafter, to decide the issue afresh in accordance with law.

10. It is made clear that all the grounds including legal grounds relating to the validity of reopening of the assessment will be available to the assessee that may be raised before the Assessing Officer and the Assessing Officer will duly adjudicate upon all the grounds taken by the assessee whether on merits or legal grounds.

11. So far as the penalty appeals relating to levy of penalty u/s. 271(1)(b)/272A(1)(d) of the Act are concerned, the Ld. Counsel has submitted that the assessee was not duly conversant with the income tax proceedings. That a very short time of 4/5 days was given by the Assessing Officer for compliance of the notice. He has further demonstrated that all the penalty orders are time barred. In this respect, the reference can be made to the penalty order passed u/s. 271(1)(b) of the Act for AY 2016-17. The ld. Counsel in this respect has referred to the following chart :

Date of issue of notice u/s. 142(1)	26.11.2019
Compliance sought on	29.11.2019
Notice u/s. 274 r.w.s. 271(1)(b)	13.12.2019
Last date to pass penalty order	30.06.2020
Penalty Order u/s. 271(1)(b)	22.12.2021

12. He referring to the above chart has submitted that the last date of passing the penalty order was 30.06.2020. However, the impugned penalty order has been passed on 22.12.2021.

12.1. The Ld. DR has also fairly admitted that the impugned penalty order is time barred.

12.2. Similar is the position relating to the other assessment years e.g. for AY 2017-18, the last date to pass the penalty order was 30.06.2020, whereas the impugned penalty order was passed on 09.06.2021. Similarly, for AY 2012-13, the last date to pass the penalty order was 30.06.2020 whereas, the penalty order has been passed on 20.12.2021. For AY 2014-15, the last date to pass the penalty order was 30.06.2020 whereas, the impugned penalty

order was passed on 29.12.2021. Since all the penalty orders passed u/s. 271(1)(b)/272A(1)(d) of the Act are barred by limitation, hence, the same are accordingly quashed.

13. In the result, the appeals of the assessee ITA Nos. 4, 5, 6, 7 and 413/Pat/2024 are treated as allowed for statistical purposes whereas the assessee's appeals ITA Nos. 412, 414, 415 and 416/Pat/2024 are hereby allowed.

***Order pronounced in the open Court.***

*Sd/-*

**[Sanjay Awasthi]**  
Accountant Member

*Sd/-*

**[Sanjay Garg]**  
Judicial Member

Dated: 22.01.2025

*J.Dey (Sr. P.S.)*

*Copy of the order forwarded to:*

1. **Appellant : Yashwant Singh**
2. **Respondent : DCIT, Circle-1, Patna**
3. **CIT(A), NFAC, Delhi.**
4. **CIT**
5. DR, ITAT, Patna
6. Guard File.

*// True copy //*

By order

Assistant Registrar  
ITAT, Patna Bench