

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

Before Shri Sonjoy Sarma, Judicial Member and Shri Rakesh Mishra, Accountant Member

I.T.A. No.06/Pat/2025
Assessment Year: 2017-18

Yogendra Prasad Sharma.....Appellant
0 Matukdhari Niwas,
West Boring Canal Road Boring Road,
Patna-800001.
[PAN: AOPPD7881R]

vs.

DC/AC, Circle-6, Patna.....Respondent

Appearances by:

Shri Sagar Warsi, AR, appeared on behalf of the appellant.

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

Date of concluding the hearing : February 06, 2025

Date of pronouncing the order : February 10, 2025

ORDER

Per Sonjoy Sarma, Judicial Member:

The present appeal has been preferred by the assessee against an order dated 30.05.2024 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. At the outset, the Registry has informed that there is a delay of 160 days in filing the present appeal. The assessee filed an application for condonation of delay stating reasons for such delay. After considering the application, we find reasonable cause and the delay was not intentional. We, therefore, condone the delay in filing the appeal and adjudicate the appeal on merits of the case.

3. Brief facts of the case are that the assessee is an individual and filed his return of income by declaring total income of Rs.11,32,280/-

under the head salaries, income from house properly and income from other sources. In addition of this, the assessee has also shown agricultural income of Rs.18,64,000/- during the relevant year. The case of the assessee was selected for scrutiny under CASS followed by notice u/s 143(2) of the Act to verify the issue of cash deposits of Rs.18,64,000/- made during the demonetization period. In response to the notice, the assessee submitted that the said cash deposits were his earlier years' income from agricultural activity which was kept for construction of new house in his village. Further, notice u/s 142(1) of the Act was issued on registered mail of the assessee but the assessee did not comply to the notice. Since there was no reply on the part of the assessee, accordingly the Assessing Officer assessed the total income of Rs.11,32,280/- and a sum of Rs.15,87,000/- as unexplained money u/s 69A of the Act and added the same in the hands of the assessee by framing an assessment order u/s 143(3) of the Act.

4. Dissatisfied with the above order, the assessee preferred an appeal before the ld. CIT(A) against the assessment order. However, the ld. CIT(A) dismissed the appeal of the assessee by upholding the order of the Assessing Officer.

5. Aggrieved by the said order, the assessee filed the present appeal before this Tribunal raising various grounds. However, the primary contention of the ld. AR is that while passing the impugned order of the ld. CIT(A), the ld. CIT(A) did not consider the submission made by the assessee simply dismissed the appeal of the assessee. The ld. AR contended that during the proceedings before the ld. CIT(A), the assessee furnished written submissions which are as under:

“With reference to the above captioned subject matter, I, Yogendra Prasad Sharma, PAN: AIPPS0496R, am a retired person from Bihar Government resides at Matukdhari Niwas, West Boring Canal Road, Patna-800001,

Bihar. I hereby like to bring your kind attention towards demand Issued on 12.12.2019 vide Order No. ITBA/ (AST/5)/143(3)/2019-20/102239879 (1) under section 143(3) (Attachment No.1). In the said order, it was alleged for imposition of tax payment of s.12,26,547/.

Facts of the Case:

1. I, Yogendra Prasad Sharma, with all my brothers together, we hold 71 Bigha Agricultural Land. These lands are having healthy 2 crop season for many years. For this purpose, we have submitted:

a. Family Tree (Attachment No.2)

COME TYPARTMENT

b. Affidavit from all Brothers ve

c. List of 23 Land Buckets. (Attachment No.4)

(Attachment No.3)

2. On an average, we collect Rs.10000/- to 13000/- per year per Bigha. Average collectible amount per year was Rs.852000/- (i.e. 1200071) 30% of entire collections are expenditure for every year. Therefore, net Agricultural income for each year is Rs.5,96,400/-

3. Since last 3-4 years, we were planning to construct new house for the family. Therefore being head of the family, I was told to collect and aggregate entire amount for construction purpose. As it was not my income so I had kept that money as cash with myself.

4. After announcement of demonetisation, I can't keep that money anymore in old form.

Therefore, for saving that money, I have consulted my Brothers and they have suggested to deposit that amount of Rs. 18,64,000/- in my bank accounts.

5. After depositing that amount into my bank account, I have also offered Income Tax on agricultural Receipts. Which can be verified from attached documents:

a. Income Tax Return FY 2016-17 ((Attachment No.5)

b. Income Tax Form FY 2016-17 (Attachment No.6)

c. Computation of Income FY 2016-17 (Attachment No.7)

1. It is accepted that I have deposited Cash into my Bank Accounts. But on the other hand, I have also offered Income Tax As per applicable rate into the Income Tax Return of Respective Financial Year. It can be verified from

*Income Tax Return Form-V, Income Tax Forma and Computation of Income.
(ie. attachment No. 5, 6 &7)*

2. Amount deposited into Bank Accounts are our genuine agricultural receipt for several years. For this purpose Attachment No. 2, 3 & 4 can be referred. Land receipts shows that we have that much of land as a family so our receipts are genuine in nature.

3. Looking into above facts and Explanations, it is clear that:

a. I have Deposited cash into my Bank Accounts.

b. During filling of Income Tax Return, Proper Income Tax has been deposited as per rules specified for agricultural income.

c. As a hindu family structure, 1. Yogendra Prasad Sharma, being elder brother, was designated as "HEAD OF THE FAMILY". Therefore, entire Income from parental property was lying with me for future construction of House at village. During demonetisation period, I have deposited such amount into my account. For this purpose, affidavit from all brothers jointly presented before you.

d. It can be easily concluded that nothing remains undisclosed into my income tax return.

e. Therefore, provision of section 69A along with Section 115 BBE is not applicable in this case.

You are requested to kindly go through the records and facts presented before you and quash the order passed by the assessing officer. Hope you will accede to my request and oblige us. Further you are requested that before passing any order a proper opportunity of being heard will be provided to me for putting my part, if required."

5.1 However, the Id. CIT(A) in his findings nothing has been discussed on this issue. The Id. AR, therefore, prayed that another opportunity may be given to the assessee to remand back the issue to the file of the Id. CIT(A) with a direction to reexamine the issue afresh after affording reasonable opportunity of being heard to the assessee.

6. The Id. DR supported the decisions rendered by the authorities below.

7. We, after hearing both the parties and perusing the materials available on record, find that the Id. CIT(A) has simply upheld the order

of the Assessing Officer without considering the details or documents made by the assessee in order to substantiate his claim. In the interests of justice and fair play, we feel it justified to remand the whole issue back to the file of the Id. CIT(A) to re-examine the case after providing reasonable opportunity of being heard to the assessee. The Id. CIT(A) is directed to pass a fresh order after verifying the documents submitted by the assessee. The assessee is also directed to fully cooperate and comply all notices during the remand proceedings without any fail.

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

Kolkata, the 10th February, 2025.

Sd/-

[Rakesh Mishra]

लेखा सदस्य/Accountant Member

Sd/-

[Sonjoy Sarma]

न्यायिक सदस्य/Judicial Member

Dated: 10.02.2025.

RS

Copy of the order forwarded to:

1. Yogendra Prasad Sharma
2. DC/AC, Circle-6, Patna
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches