

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

**Before
SRI SANJAY GARG, JUDICIAL MEMBER**

**I.T.A. No.: 582/PAT/2024
Assessment Year: 2017-18**

Arun Kumar S/o, Rambali Prasad Sukhali, Via Mainatand, Narakatiganj, West Champaran, Bihar-845306. (PAN: BJEPP3209A)	Appellant
Vs.		
ITO, Ward-1(5), Bettiah	Respondent

Appearances:

Appellant represented by: *Shri Ankit Kejriwal, AR*
Respondent represented by: *Shri Ashwani Kumar, Sr. DR*

Date of concluding the hearing : 13.02.2025
Date of pronouncing the order : 13.02.2025

ORDER

The captioned appeal has been preferred by the assessee against the order dated 25.01.2024 of the Ld. Commissioner of Income Tax (Appeal), National Faceless Appeal Centre, Delhi [hereinafter referred to as Ld. 'CIT(A)'] u/s. 250 of the Income Tax Act, 1961 (hereinafter referred to as the "Act") for Assessment Year (AY) 2017-18.

2. This appeal of assessee is time barred by 171 days. A separate application for condonation of delay has been filed. Considering the averments made the said application, the delay in filing the appeal is hereby condoned.

3. The assessee in this appeal is aggrieved by the action of the Ld. CIT(A) in confirming the addition made by the Assessing Officer of Rs.10,29,000/- on account of unexplained cash deposits in the bank account of the assessee.

4. At the outset, the Ld. Counsel for the assessee inviting my attention to the impugned assessment order has submitted that the same is an ex parte/best judgment order passed u/s. 144 of the Act.

5. The Ld. Counsel for the assessee has submitted that the assessee deals in the business of agricultural machinery. That the total turnover of the assessee from the said business in the year under consideration was of Rs.86,41,000/-. The Ld. Counsel for the assessee has submitted that the aforesaid deposits to the bank were out of the business receipts of the assessee. He has further submitted that the assessee being a rural person was not aware of the nitty gritty of the income tax proceedings and did not file his return of income. However, in the appellate proceeding, the entire facts were explained to the Ld. CIT(A) and even a belated return was also filed. However, the Ld. CIT(A) rejected the averments in a summary manner and confirmed the addition so made by the Assessing Officer.

6. I have heard the rival contentions and gone through the records. Though in this case, the assessee originally did not file the return of income, however, even in the best judgment assessment proceedings, the Assessing Officer is required to go through the details furnished by the assessee and is supposed to make best judgment assessment. No doubt the assessee out of ignorance etc. did not appear before the Assessing Officer, however, before the appellate authority all the facts and circumstances were explained. Under these circumstances, the Ld. CIT(A) was required to consider the explanation given by the assessee and thereafter, should have decided the matter in accordance with law. However, in this case, Ld. CIT(A) has failed to exercise his jurisdiction properly and dismissed the appeal summarily because the assessee did not make compliance before the Assessing Officer. Considering the overall facts and circumstances of this case, in my view, the interests of justice will be well served, if the assessee is given an opportunity to present his case before the Assessing Officer. Impugned order of the Ld. CIT(A) is accordingly, set aside and the matter is restored to the file of the Assessing Officer for assessment afresh on the issue. Needless to say, the Assessing

Officer will give proper opportunity to the assessee to present his case and thereafter to decide the matter in accordance with law.

7. In the result, the appeal of the assessee stands allowed for statistical purposes.

Order pronounced in the open Court.

Sd/-
[Sanjay Garg]
Judicial Member

Dated: 13.02.2025

J.Dey (Sr. P.S.)

Copy of the order forwarded to:

1. **Appellant : Shri Arun Prasad**
2. **Respondent : ITO, Ward-1(5), Betiah**
3. **CIT(A), NFAC, Delhi**
4. **CIT**
5. DR, ITAT, Patna Bench, Patna.
6. Guard File.

// True copy //

By order

Assistant Registrar
ITAT, Patna Benches
Patna