

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

**Before
SRI SANJAY GARG, JUDICIAL MEMBER**

**I.T.A. No.: 206/PAT/2023
Assessment Year: 2017-18**

Santosh Kumar **Appellant**
S/O Ram Chandra Sinha,
Morsand, Runnisiadpur
Bihar-843328.
(PAN: ANAPK1611L)

Vs.

ITO, Ward-2(5), Sitamarhi **Respondent**

Appearances:

Appellant represented by: *N o n e*

Respondent represented by: *Shri Ashwani Kumar, Sr. DR*

Date of concluding the hearing : 12.02.2025

Date of pronouncing the order : 12.02.2025

ORDER

The captioned appeal has been preferred by the assessee against the order dated 13.02.2023 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") for Assessment Year (AY) 2017-18.

2. This appeal of the assessee is time barred by 49 days. However, a condonation of delay petition has been placed in file. After considering the averments made in the application and considering the shortness of delay, I condone the delay in filing the appeal. No one is present on behalf of the assessee. However, after going through the records and after hearing the Ld. DR, I proceed to decide the appeal.

3. The assessee in this appeal is aggrieved by the action of the Ld. CIT(A) in confirming the addition of Rs.23,80,360/- made by the Assessing Officer on account of unexplained cash deposit in the bank account of the assessee.

4. At the outset, the ld. DR has brought to my attention that the impugned assessment order as well as the impugned order of the Ld. CIT(A) are ex parte orders. The plea of the assessee in this case is that the aforesaid cash deposits were out of cash sales of the assessee as the assessee is engaged in the activity of mobile recharge distributor. In my view, in this case, the interests of justice demand that the assessee should be given an opportunity to present his case before the Assessing Officer and explain the sources of deposits. In view of this, the impugned order of the Ld. CIT(A) is set aside. Matter is restored to the file of the Assessing Officer with a direction to decide the issue afresh after giving proper opportunity to the assessee to present his case.

5. In the result, the appeal of the assessee is treated as allowed for statistical purposes.

Order pronounced in the open Court.

Sd/-
[Sanjay Garg]
Judicial Member

Dated: 12.02.2025

J.Dey (Sr. P.S.)

Copy of the order forwarded to:

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

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By order
Assistant Registrar
ITAT, Patna Benches