

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

**Before
SRI SANJAY GARG, JUDICIAL MEMBER**

**I.T.A. No.: 243/PAT/2024
Assessment Year: 2017-18**

Amit Kumar **Appellant**
M/s. Avinash Trading Co.
Balaji Road, Lalganj, Vaishali,
Bihar-844122.
(PAN: BSVPK9908B)

Vs.

ITO, Ward-1(3), Vaishari **Respondent**

Appearances:

Appellant represented by: *Shri Sanjeev Kr. Anwar, Advocate*
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 15.11.2023 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 23 days. However, considering the submissions of the Ld. AR of the assessee and the shortness of delay, 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 of Rs.8,06,200/- made on account of unexplained cash deposit in the bank account of the assessee.

4. The brief facts of the case are that the Assessing Officer noticed that the assessee had deposited a sum of Rs.12,06,200/- in his bank account during demonetization period. On being asked to explain in this respect the

assessee explained that he is involved in the business of trading in sarees. That he further explained that the assessee possesses small business and his income was less than the prescribed threshold for filing the return of income. He explained that the total deposits were out of the sales transaction of the assessee. He further explained that the assessee neither maintain any accounts nor is legally required to do so. He, however, to prove that the deposits were out of sales transaction produced certain bills before the Assessing Officer. The Assessing Officer found that the assessee to prove the sales of Rs. 4 lakh only. He, therefore, treated the balance amount of Rs.8,06,200/- as unexplained income of the assessee.

5. The Ld. CIT(A) confirmed the addition so made by the Assessing Officer.

6. I have heard the rival contentions and gone through the records. The Ld. Counsel for the assessee has submitted that the assessee belongs to unorganised sector. The assessee did not issue bills/vouchers on every sale of sarees. However, the assessee could produce the bills of Rs. 4 lakh out of the total sales of Rs.12,06,200/-. The ld. Counsel for the assessee has further submitted that the business activity of the assessee has been duly proved and that the Assessing Officer was not justified in treating the said amount of deposit of Rs.8,06,200/- as unexplained income of the assessee. He has further submitted that the addition in this case of the assessee may be treated as a case of no accounts and the profit on the sales of the assessee to estimate u/s. 44AD of the Act. The Ld. DR has also fairly agreed that in this case the proper justice will be that only the profit element on the sales be brought to tax.

7. In the year under consideration, if estimation of profit requires to be taken @ 8% of the turnover of the assessee u/s. 44AD of the Act on the entire deposit of the assessee of Rs. 12,06,200/- as turnover of the assessee and apply the estimated profits @ 8% the income of the assessee would be approximately Rs. 96,000/- which is very less than the prescribed threshold for an assessee to file the income tax return or to deposit any tax. In view of this, the impugned addition is not warranted and the same is deleted.

8. In the result, the appeal of the assessee stands allowed.

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 Amit Kumar**
2. **Respondent : ITO, Ward-1(3), Vaishali**
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