

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

**Before
SRI SANJAY GARG, JUDICIAL MEMBER**

**I.T.A. No.: 251/PAT/2024
Assessment Year: 2017-18**

Late Yogendra Ray **Appellant**
Through LR Pavan Kumar
Vill. Vakhri Doa, P.O. Vakhri Doa,
Hajipur, Vaishali, Bihar-844122.
(PAN: BRLPR3024A)

Vs.

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

Appearances:

Appellant represented by: *Shri Nishant Maitin, CA*
Respondent represented by: *Shri Ashwani Kumar, Sr. DR*

Date of concluding the hearing : 10.02.2025

Date of pronouncing the order : 10.02.2025

ORDER

The captioned appeal has been preferred by the assessee against the order dated 18.12.2023 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. The assessee in this appeal has taken following grounds of appeal:

"1. The order passed by Ld. CIT(A), NFAC is unjust, unwarranted and bad in law.

2. Ld. CIT(A), NFAC failed to appreciate and/or overlooked and/or did not consider the submissions made by the appellant as also other facts of the case.

3. On the facts and in the circumstances of the case, the Ld. CIT(A), NFAC erred in holding that the appellant did not make mandatory payment of amount equal to amount of advance tax and as such the appeal was not eligible for admission.

4. On the facts and in the circumstances of the case, the Ld. CIT(A), NFAC erred in not appreciating the fact that the appellant, being senior citizen enjoyed the higher threshold limit for payment of taxes, if any.

5. *On the facts and in the circumstances of the case, the Ld. CIT(A), NFAC erred in not affording fair opportunity to the appellant to explain the reasons for non-deposit of any tax.*

6. *On the facts and in the circumstances of the case, the Ld. CIT(A), NFAC erred in not adjudicating the addition of Rs.12,98,500/- being the amount deposited in bank accounts of the appellant on the ground that the appellant failed to establish source and nature of cash deposits made in old currency.*

7. *On the facts and in the circumstances of the case, the Ld. CIT(A), NFAC erred in not adjudicating the addition of Rs.2,82,461/- being the amount determining as business income of the appellant from trading activities.*

8. *The appellant craves leave to add, amend, rectify, modify or otherwise alter any ground of appeal.”*

3. At the outset, the Ld. Counsel for the assessee has submitted that the impugned order of the Ld. CIT(A) is an ex parte order. It is submitted that during the pendency of the appeal before the Ld. CIT(A), the assessee who was an old aged person, got severe sickness and he ultimately passed away on 19.04.2022. Further, the impugned order of the Ld. CIT(A) is dated 18.12.2023 i.e. after the death of the appellant/assessee. No one prosecuted the matter on behalf of the assessee after his death resulting into the aforesaid ex parte order. Even legal representative of the assessee has not been impleaded by the Ld. CIT(A). However, coming into the knowledge of the passing of the order of the Ld. CIT(A), the present appeal has been preferred through the legal heirs of the assessee.

4. Considering the above submissions of the Ld. Counsel for the assessee/LR of the assessee, the impugned order of the Ld. CIT(A) is set aside. The matter is restored to the file of the Ld. CIT(A) with a direction to decide the same afresh on merits after giving proper opportunity of hearing to the assessee/LR of the assessee. Appeal of the assessee is treated as allowed for statistical purposes.

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: 10.02.2025

Copy of the order forwarded to:

1. **Appellant : Late Yogendra Ray through LR Pavan Kumar**
2. **Respondent : ITO, Ward-1(3), Vaishali**
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