

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

**Before
SRI SANJAY GARG, JUDICIAL MEMBER**

**I.T.A. No.: 697/PAT/2024
Assessment Year: 2017-18**

Ram Kumar Prasad **Appellant**
M/s. Kumar Gas Agency,
Anugrah Narayan Road, Jamhor,
Aurangabad, Bihar-824101.
(PAN: APQPP8490Q)

Vs.

ITO, Ward-3(3), Aurangabad **Respondent**

Appearances:

Appellant represented by: Shri Abhi Sarkar, 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 27.09.2023 of the Ld. Commissioner of Income Tax (Appeal), National Faceless Appeal Centre (NFAC) [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. Appeal of the assessee is time barred by 384 days. A separate application for condonation of delay has been filed. After considering the averments made in the application, I condone the delay in filing the appeal.

3. The assessee in this appeal is aggrieved by the action of the Ld. CIT(A) in confirming the addition of Rs.10,15,500/- on account of cash deposit in the bank account of the assessee during demonetization period and further estimation of profits at Rs.10,23,797/-.

4. At the outset, Ld. Counsel for the assessee has submitted that in this case, the impugned assessment order is an ex parte/best judgment

assessment order passed u/s. 144/147 of the Act. He has further submitted that even the impugned order of the Ld. CIT(A) is an ex parte order. The Ld. Counsel for the assessee has further submitted that the aforesaid cash deposits were out of the sale proceeds of the business of the assessee, the same being the LPG gas agency of Bharat Petroleum Corporation Ltd. under the name and style of M/s. Kumar Gas Agency. It has further been pleaded that the assessee maintains books of account and even the business of gas agency is also controlled by the Government. That the assessee can duly explain the source of deposit as well as the profits from the business. He, has, therefore, pleaded that the assessee may be given an opportunity to represent his case before the Assessing Officer.

5. Considering the above submissions of the Ld. Counsel for the assessee and considering the facts of the case, I am of the view that the interests of justice will be well served if, the assessee is given an opportunity to present his case before the Assessing Officer. Accordingly, the impugned order of the Ld. CIT(A) is set aside. The matter is restored to the Assessing Officer for assessment afresh on this issue in accordance with law.

6. 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 Ram Kumar Prasad**
2. **Respondent : ITO, Ward-3(3), Aurangabad**
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