

आयकर अपीलीय अधिकरण
पटना पीठ, कोलकाता में
**IN THE INCOME TAX APPELLATE TRIBUNAL
PATNA BENCH AT KOLKATA**

[वर्चुअल कोर्ट]
[Virtual Court]

श्री संजय शर्मा, न्यायिक सदस्य
एवं
श्री रकेश मिश्रा, लेखा सदस्य
के समक्ष
Before

**SHRI SONJOY SARMA, JUDICIAL MEMBER
&
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**I.T.A. No.: 434/PAT/2024
Assessment Year: 2015-16**

Sudhanshu Shekhar <i>(Appellant)</i>	Vs.	Income Tax Officer, Gaya <i>(Respondent)</i>
PAN: DMRPS5351A		

Appearances:

Assessee represented by : Jitendra Kumar Sinha, Adv.

Department represented by : Ashwani Kr. Singal, JCIT.

Date of concluding the hearing : January 30th, 2025

Date of pronouncing the order : March 4th, 2025

ORDER

PER RAKESH MISHRA, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of the CIT(A)-NFAC, Delhi [hereinafter referred to as Ld. 'CIT(A)'] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for AY 2015-16 dated 19.01.2024, which has been passed against the assessment order u/s 147/144B of the Act, dated 23.03.2022.



1.1. The Registry has informed that the appeal filed by the assessee is barred by limitation by 70 days. An application along with affidavit seeking condonation of delay has been filed by the assessee stating as under:

"I SUDHASHU SHEKHAR Son of SHAMABHU PRASAD having PAN NO. DMRPS5351A resident of Rai Shital Prasad Road in the District of Gaya do hereby solemnly affirm and declare as follows

- 1. That I am proprietor of M/s. S.B. Electronic Centre, Located at Rai Shital Prasad Road, Gaya.*
- 2. That I am assessed to tax by ITO Ward 3(1), Gaya since long having PAN NO. DMRPS5351A*
- 3. That I was caught and gripped by the savior illness and other disease during the period from 05/03/2024 to 20/05/2024. (Medical Report Enclosed)*
- 4. That the said affidavit will be used for filling in appeal before the honourable ITAT, Patna Bench, Patna for condonation of delay late by 68 days."*

1.2. Considering the affidavit as well as the condonation application and the reasons stated therein, we are satisfied that the assessee had a reasonable and sufficient cause and was prevented from filing the instant appeal within statutory time limit. We, therefore, condone the delay and admit the appeal for adjudication on merits.

2. The assessee is in appeal before the Tribunal raising the following grounds of appeal:

"1. The Commissioner of Income Tax (Appeals), National Faceless Appeal Center Delhi erred in confirming addition made by A.O, therefore order passed is illegal, invalid and bad in law.

2. The learned CIT(A) erred in confirming the addition made of Rs.18,70,000/-towards cash deposited in bank account without appreciating that the appellant had duly discharged the onus by proving the source of cash deposit in the bank accounts by filing complete books of accounts and Bank Statements, since the total cash deposited in the bank



accounts are fully related with withdrawal from proprietor capital account of the firm, which was deposited during period under consideration.

3. On the fact and circumstances learned Commissioner of Income Tax (Appeals)-National Faceless Appeals Center, Delhi erred in confirming income determined by the Assessing Officer at Rs.18,70,000/- is illegal, invalid and bad in law.

4. The learned Commissioner of Income Tax (Appeals) National faceless Center, DELHI erred in not accepting the contention of the assessee and without going into to the merits of case confirmed the income U/s. 69A and charged tax U/s. 115BBE, therefore order passed is illegal, invalid and bad in law.

5. On the facts and circumstances of the case and in law, the Ld. CIT(A) was not at all justified and right in confirming addition of Rs 18,70,000/- made u/ s. 69A of IT Act, despite the fact of the transaction with bank has already been disclosed before the assessing officer as well as before the CIT (APPEALS) NFAC, DELHI.

6. Without prejudice to the above grounds, the learned CIT(A) has grievously erred in law and or on facts in not allowing sufficient opportunity to the appellant before disposing of the appeal. The details/ evidence for the appeal could not be produced for the reasons stated in the statement of facts. The Ld. CIT(A) has heard the appeal at a glance only and not tried to cross verify anything as mentioned in grounds and written arguments and disallowed in a single stroke mechanically, without applying any mind and has travelled on the same track as was created by the Ld. AO. Thus there was gross violation off the principles of natural justice, hence, the order u/s 250 of Income Tax Act, 1961 passed by the Ld. CIT(A) is liable to be deleted.

7. That the notices u/s 250 was served only on the ITD portal not on the registered email and or through mobile massages, the appellate proceeding through ITD was not in cognizance of the appellant, in the meantime, appellant was caught and gripped with severe illness, and the appellate authority not bothered to communicate the appellate proceeding to the appellant in any other manner, hence the compliance with the CIT (A) could not be responded.

8. The appellant prays that the Order of the Ld. CIT(A) on the above grounds be set aside and that of the Assessing Officer also be set aside."

9. Ground, if any, will be agitated at the time of hearing."

3. At the outset, it was informed by the Ld. AR vide letter dated 01.01.2025 that the assessee has availed the Direct Tax Vivad se



Vishwas Scheme, 2024 and copy of Form Nos. 1 and 2 were attached. Since the assessee has opted for the Direct Tax Vivad se Vishwas Scheme, 2024, the present appeal becomes infructuous and needs to be withdrawn. The Ld. DR did not object to the withdrawal of the appeal.

4. As per S. No. 10 of the Guidance Note 1/2024 on provisions of the Direct Tax Vivad se Vishwas Scheme, 2024 dated 15th October, 2024, it is mentioned that as per section 91(2) of the Scheme, after filing of declaration, appeals before ITAT/CIT(A)/ JCIT(A) are deemed to be withdrawn from the date of issue of certificate by the Designated Authority. Further as per section 91(3) of the Scheme, the taxpayer is required to withdraw appeals and furnish proof thereof along with intimation of payment u/s 92(2) of the Scheme. Since the assessee has requested for withdrawal of the appeal, he is permitted to withdraw the same and the appeal is dismissed as withdrawn. However, if the subsequent facts warrant that the appeal should be heard on merits, the assessee shall be at liberty to file a Miscellaneous Application for restoration of the appeal.

5. In the result, the appeal of the assessee is dismissed as withdrawn.

Order pronounced in the open Court on 4th March, 2025.

Sd/-

[Sonjoy Sarma]
Judicial Member

Sd/-

[Rakesh Mishra]
Accountant Member

Dated: 04.03.2025

Bidhan (P.S.)



Copy of the order forwarded to:

1. **Sudhanshu Shekhar, S.B. Electronic Centre, Rai Sital Prasad Road, Gaya, Bihar, 823001.**
2. **Income Tax Officer, Gaya.**
3. CIT(A)-NFAC, Delhi.
4. CIT-
5. CIT(DR), Patna Bench, Patna.
6. Guard File.

// True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata