

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.: 435/PAT/2024
Assessment Year: 2017-18**

Purnima Priyadarshi <i>(Appellant)</i>	Vs.	ITO, Ward-2(3), Biharsharif <i>(Respondent)</i>
PAN: AWLPP8266E		

Appearances:

Assessee represented by : Prason Kr. Adv.

Department represented by : Ashwani Kr. Singal, JCIT.

Date of concluding the hearing : January 30th, 2025

Date of pronouncing the order : March 5th, 2025

ORDER

PER RAKESH MISHRA, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of the ADDL/JCIT(A)-10, Mumbai [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 2017-18 dated 31.03.2024, which has been passed against the assessment order u/s 144 of the Act, dated 04.12.2019.



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

“1. For that the addition made is otherwise bad and illegal as appellate commissioner has not provided proper opportunity nor have considered the evidence and documents available on record before passing order.

2. For that the dismissal of appeal on the ground of non-prosecution is otherwise bad and arbitrary because the Ld. Commissioner of Income Tax has not served notice to the appellant nor the appellant was aware about the appellate proceeding as the assessee is living in remote rural area and he was not convergent with computer and online system.

3. For that the order passed by the appellate Commissioner is not signed either though digitally or through pen and ink, as such, order passed by commissioner is bad and illegal.

4. For that addition on account of cash deposit in bank is bad and illegal as the cash were the sale proceed of business which the appellant kept with himself for smooth running of business but due to demonetization, the appellant had deposited the same in the bank, as such, it were not unexplained deposit rather the source of deposit were explained.

5. For that the addition made by the assessing officer of Rs.3,15,000/on account of undisclosed investment under section 69A of the Act is bad and illegal and also against the provision of law because the said amount in question were recorded/accounted for in the books of account and the said amount is part of sell which effected by assessee by making sell of cattle feeds before the date of demonetization and the assessee has kept cash in his hand to make payment to labourers etc for smooth running of business.

6. For that the income of assessee is below taxable limit, as such, appellant is not require to file return, hence the addition of Rs.2,67,254 is bad and arbitrary.

7. For that the computation of income under section 115 BBE and levy of tax on that basis is bad and illegal in view of the fact that the assessee was carrying on business and amount deposited in bank was part of sell of commodities/goods, as such, addition on account of unexplained investment and levy of tax of higher rate cannot be made.

8. For that the grounds taken herein above are not prejudicial to each other.

9. For that any other grounds may be taken at the time of hearing.”



3. Brief facts of the case are that a notice u/s 142(1) of the Act was issued on 15.03.2018 requiring the assessee to file the return of income as per the conditions and manner prescribed in Rule 12 of the Income Tax Rules, 1962 but the assessee failed to furnish the same. It was noted by the Ld. AO that in Allahabad Bank, Main Branch, Biharsharif A/c. No. 50306373973, out of total amount credited during FY 2016-17 at Rs. 36,55,678/-, a sum of Rs. 14,57,500/- was the cash deposited during the demonetization period i.e. from 09.11.2016 to 31.12.2016 and as the return of income was not filed, the source of cash deposit remained unexplained. Penalty u/s 272A(1)(d) of the Act was initiated and a show cause notice was issued which was not complied with but in response to the final show cause notice the assessee submitted that the cash was deposited throughout the year including during the demonetization period and the same was out of sale proceeds of cattle feeds. Copy of sale and purchase ledger and copy of bank statements were filed. Since the required evidence was not filed, the Ld. AO analysed the submission made and held that a sum of Rs. 3,15,000/- was unexplained money which was added u/s 69A of the Act. The rest of the amount of cash deposit of Rs. 33,40,678/- was considered as the assessee's turnover of the business and was subjected to net profit of 8% which worked out to Rs. 2,67,254/- and the total income was assessed at Rs. 5,82,254/- u/s 144 of the Act. Aggrieved with the assessment order, the assessee preferred an appeal before the Ld. CIT(A), who vide order dated 31.03.2024 dismissed the appeal. The Ld. CIT(A) has extracted the relevant paras of the assessment order and since despite granting sufficient opportunities of being heard, the appellant did not make any submission, he held that the assessee had no specific submissions and documentary evidences to file in respect of



the relief claimed and dismissed all the grounds of appeal as well as the appeal. Aggrieved with the order of the Ld. CIT(A), the assessee has filed the appeal before the Tribunal.

4. Rival contentions were heard and the record and the submissions made have been examined. The Ld. AR sought adjournment on the date of hearing as the assessee wanted to file written submission and the paper book with respect to the deposits made in the bank account because the issues in the impugned order related to deposit made in the bank account. The Bench noted that the assessee had assailed the appellate order on account of lack of proper opportunity and non-consideration of evidence and documents available on record and the appellant was unaware of the appellate proceeding as he was living in a remote rural area and not conversant with the computer and online system. Since the assessment order as well as the appeal order were both *ex parte*, and as there was no proper compliance before both the Ld. AO as well as the Ld. CIT(A), hence in the interest of justice and fair play it was considered appropriate that the request of the assessee to set aside the case may be allowed so that a proper opportunity of being heard may be provided. Hence, after examining the facts of the case, the adjournment was refused and it was deemed appropriate to set aside the order of the Ld. CIT(A) and remit the matter back to him for deciding afresh. Thus, the order of the Ld. CIT(A) is set aside to be done afresh. Needless to say, the assessee shall be given a reasonable opportunity of being heard to make any further submission it wants to make in support of the relief claimed as she has submitted that the cash deposit was out of the sale proceeds for which necessary evidence is in the possession of the assessee. The Ld. CIT(A) shall also grant an opportunity of being heard to the Ld. AO or call for the remand report.



The assessee shall not seek unnecessary adjournments. Accordingly, the grounds taken by the assessee in his appeal are allowed for statistical purposes.

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

Order pronounced in the open Court on 5th March, 2025.

Sd/-

[Sonjoy Sarma]
Judicial Member

Sd/-

[Rakesh Mishra]
Accountant Member

Dated: 05.03.2025

Bidhan (P.S.)



Copy of the order forwarded to:

1. **Purnima Priyadarshi, D/o Satish Prasad, Shanti Sadan, Udanpuri, Garhper, Biharsharif, Nalanda, Patna, Bihar, 803101.**
2. **ITO, Ward-2(3), Biharsharif.**
3. ADDL/JCIT(A)-10, Mumbai.
4. CIT-
5. CIT(DR), Patna Bench, Patna.
6. Guard File.

//True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata