

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**GUWAHATI BENCH, GUWAHATI**  
**(VIRTUAL HEARING AT KOLKATA)**

**SHRI MANOMOHAN DAS, JUDICIAL MEMBER**  
**SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER**

**I.T.A. Nos. 201 & 202/GTY/2024**  
**Assessment Year: 2018-19**

**Sumaiya Enterprise,**

Sumaiya Enterprise,  
Kayakuchi Bazar, Kayakuchi Bazar B.O.,  
Kayakuchi Bazar, Barpeta,  
Assam - 781316  
[PAN: AAOAS2670M]

.....**Appellant**

**vs.**

**ITO,**

Ward-Barpeta Road,  
Barpeta (Assam)

..... **Respondent**

**Appearances by:**

Assessee represented by : None  
Department represented by : Kausik Ray, JCIT

Date of concluding the hearing : 26.02.2025

Date of pronouncing the order : 06.03.2025

**ORDER**

**PER SANJAY AWASTHI, ACCOUNTANT MEMBER:**

1. This is a batch of 2 appeals pertaining to the same assessee. ITA No. 201/Gty/2024 pertains to the quantum matter and ITA No. 202/Gty/2024 challenges the levy of penalty under Section 271AAC(1) of the Income-tax Act, 1961 (hereafter “the Act”). For the sake of convenience, these two appeals are being disposed of through a single order. ITA No. 201/Gty/2024 (quantum) is being taken as the lead case.

2. In ITA No. 201/Gty/2024 the matter arises from the order of Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre

(NFAC), Delhi [hereafter “the Ld. CIT(A)”], dated 29.02.2024. This order itself is on the order passed under Section 147/144 of the Act, dated 29.02.2024, passed by the Ld. AO, in an ex parte manner. It is seen that the assessee had made a number of cash deposits and withdrawals on account of which his case was re-opened. Admittedly, there was no explanation submitted before the Ld. Assessing Officer, nor any return of income was filed. Thereafter, the Ld. Assessing Officer proceeded to add Rs. 1,15,71,000/- under Section 69A & 69C of the Act.

2.1 It is seen that even before the Ld. CIT(A), the assessee could not succeed as he did not make any presentation with respect to opportunities given for hearing.

3. Aggrieved with the impugned order, the assessee is in appeal, with the following grounds:

*“1. For that the learned A.O. has erred in law as well as in facts while framing assessment order.*

*2. For that the learned A.O. is not justified in initiating reassessment proceedings u/s 147 of I.T. Act, 1961.*

*3. For that the learned A.O. is not justified in making addition of Rs. 1,15,71,000/- u/s 69C & 69A of I.T. Act, 1961 in respect of whole amount of cash deposits and cash withdrawals ignoring all reasons of taxation.*

*4. The Appellant craves the leave to take Additional Grounds at the time of hearing of Appeal.”*

3.1 On the last date of hearing, none attended on behalf of the assessee. However, it was decided to proceed ahead with the adjudication, with the help of Ld. DR.

4. It is seen that before both of the authorities below, the assessee has not attended to the notices for hearing and therefore, has suffered ex parte orders at both of the levels. In light of this fact, it is evident that factual issues have not been thrashed out at the level of Ld. Assessing Officer or even the Ld. CIT(A). Accordingly, we deem it fit to set aside the impugned

order and remand this matter back to the file of Ld. Assessing Officer for fresh consideration, after giving an opportunity of being heard. We may caution the assessee that he must avail of the opportunities to present the facts before the Ld. Assessing Officer so that his correct income can be assessed.

4.1 With the decision in quantum matter for remanding back to the Ld. Assessing Officer, it is clear that the penalty levied under Section 271AAC(1) of the Act cannot survive, hence, the same is deleted. However, in case, at the stage of Ld. Assessing Officer if some addition is made under any section of the Act whatsoever then he would be free to initiate penalty proceedings under the appropriation sections of the Act.

5. With these findings, appeal in ITA No. 201/Gty/2024 is allowed for statistical purposes, whereas appeal in ITA No. 202/Gty/2024 is allowed.

Order pronounced in the court on 06.03.2025

Sd/-  
**[Manomohan Das]**  
**Judicial Member**

Sd/-  
**[Sanjay Awasthi]**  
**Accountant Member**

Dated: 06.03.2025

AK, PS

*Copy of the order forwarded to:*

1. Sumaiya Enterprise
2. ITO, Ward-Barpeta Road, Barpeta
3. CIT(A)-
4. CIT-
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches