

**IN THE INCOME TAX APPELLATE TRIBUNAL "PATNA" BENCH PATNA**  
**(VIRTUAL HEARING AT KOLKTA)**

**SHRI DUVVURU RL REDDY, VICE PRESIDENT**  
**SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER**

**ITA No. 555/Pat/2024**  
**(Assessment Year 2014-15)**

**Shree Prakash Singh,**

C/o. S.N. Ghosh & Associates,  
Advocates, "Sagar Mansion", 2,  
Garstin Place, 2<sup>nd</sup> Floor,  
Suite Nos. 202 & 203, Hare Street,  
Kolkata - 700001

[PAN: ACFPS2018F]

..... **Appellant**

**vs.**

**ACIT, Circle-4, Patna,**

Loknayak Prakash Bhawan,  
4<sup>th</sup> Floor, New Dak Banglow Road,  
Bandar Bagicha, Patna - 800001

..... **Respondent**

**Appearances by:**

Assessee represented by : None

Department represented by : Sh. Ashwani Kr. Singal, JCIT

Date of concluding the hearing : 12.03.2025

Date of pronouncing the order : 20.03.2025

**ORDER**

**PER SANJAY AWASTHI, ACCOUNTANT MEMBER:**

1. In this case, there is a delay of 37 days in the filing of said appeal before ITAT. However, considering the shortness of delay, the same is condoned and this appeal is admitted for adjudication.

2. The present appeal arises from order of Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereafter "the Ld. CIT(A)"], passed u/s 250 of the Income Tax Act, 1961 (hereafter "the Act") dated 16.05.2024.

2.1 In this case, the Ld. AO passed an order u/s 147/144 of the Act by enhancing the assessee's income by Rs. 59,92,576/- u/s 40(a)(ia) of the Act. Aggrieved with this action, the assessee approached the Ld. CIT(A), where also he could not succeed mainly due to the fact that there was no worthwhile compliance to notices issued fixing the case for hearing. Thereafter, the Ld. CIT(A) proceeded to adjudicate on the basis of facts already on record. Needless to say, the addition was confirmed.

2.2 Further aggrieved with this action of Ld. CIT(A), the assessee has approached the ITAT, challenging the action of Ld. CIT(A) through several grounds of appeal:

*"1. FOR THAT the Ld Commissioner of Income Tax (Appeals)- N.F.A.C. failed to appreciate that none of the conditions precedent existed and/or have been complied with and/or fulfilled by the Ld. Assistant Commissioner of Income Tax, Circle 4, Patna for his alleged assumption of jurisdiction u/s. 147 of the Income Tax Act, 1961 on 31-01-2021 in the facts and circumstances of the instant case and the alleged assessment order dated 31-03-2022 framed u/s. 147 read with s.144 of the Act by the in pursuance to such notice issued u/s. 148 of the Act is therefore ab initio void, ultra vires, and null in law.*

*2. FOR THAT on a true and proper interpretation of the scope and ambit of the provisions of s. 147 of the Income Tax Act, 1961 read with the First Proviso thereof, the Ld. Commissioner of Income Tax (Appeals)-N.F.A.C. was absolutely in error in upholding the action of the Ld. Assistant Commissioner of Income Tax, Circle 4. Patna of issuing notice u/s. 148 of the Act beyond four years without satisfying the mandatory prescription contained therein and the purported assessment order framed u/s. 147 of the Income Tax Act. 1961 is. therefore, completely opposed to law*

*3. FOR THAT the Ld. Commissioner of Income Tax (Appeals)-N.F.A.C. acted unlawfully in upholding the action of the Ld. Assistant Commissioner of Income Tax, Circle 4. Patna of issuing notice u/s 148 of the Income Tax Act, 1961 merely on a change of opinion as it was exclusively based only on the evidence already adduced on record during the course of the original assessment proceedings for the assessment year under dispute and the specious action on that behalf is absolutely arbitrary, unwarranted and perverse.*

*4. FOR THAT the spurious action of the Ld. Commissioner of Income Tax (Appeals)-NF.AC. in upholding the initiation of proceedings u/s. 147 of the Income Tax Act, 1961 by the Ld. Assistant Commissioner of Income Tax. Circle 4. Patna without any proper application of mind is invalid for want of jurisdiction as the pre-conditions for initiation of such proceedings as stipulated therein are not fulfilled in the circumstances of the case.*

5. FOR THAT the Ld. Commissioner of Income Tax (Appeals)- N.F.A.C acted unlawfully in upholding the validity of notice dated 31-03-2021 issued u/s. 148 of the Income Tax Act, 1961 by the Ld. Assistant Commissioner of Income Tax, Circle 4. Patna without any proper approval u/s 151 of the Income Tax Act, 1961 from the Id. Principal Commissioner of Income Tax., Patna-1 as required under the statute and the purported action on that behalf is thoroughly opposed to law.

6. FOR THAT on a true and proper interpretation of the scope and ambit of the provisions of s. 40(a)(ia) read with s. 194C of the Income tax Act, 1961. the Ld. Commissioner of Income Tax (Appeals)-NF.A.C. was absolutely in error in upholding the action of the Id. Assistant Commissioner of Income Tax. Circle 4. Patna in resorting to the impugned addition of Rs. 59,92,576/- on account of alleged infringement thereof on extraneous parameters which are not amenable to reason and the purported findings on that behalf are absolutely arbitrary, unreasonable and perverse.

7. FOR THAT on the facts and in the circumstances of the instant case, the Ld. Commissioner of Income Tax (Appeals)-N.F.A.C. acted unlawfully in upholding the impugned addition in the sum of Rs. 59,92,576/- resorted to by the Ld. Assistant Commissioner of Income Tax, Circle 4. Patna within the province of s. 40(a)(ia) of the Income Tax Act, 1961 without considering the mandate of the conjoint provisions of s. 194C(1) with s. 194C(3) of the Act and such specious finding reached on that behalf in violation of the statutory prescription is completely unfounded, unjustified and untenable in law.

8. FOR THAT the specious action of the Ld. Commissioner of Income Tax (Appeals)-N.F.A.C. in upholding the disallowance of Rs. 59,92,576/- on the allegation of specious failure to deduct tax at source thereon as required u/s 194C of the Act as observed to by the Ld. Assistant Commissioner of Income Tax. Circle 4. Patna for invoking the provisions of s. 40(a)(ia) of the Income Tax Act, 1961 is wholly illegal, illegitimate and infirm in law.”

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

3.1 It was pointed out by the Ld. DR that the Ld. CIT(A) has extensively recorded in paras 5.1 to 5.7 and again in paras 5.9 to 5.10, of the impugned order, the reasons for confirming the action of Ld. AO. However, it is felt that in the interests of substantive justice, since this matter was decided without the benefit of any worthwhile response from the assessee's side, this case deserves to be remanded back to the file of Ld. CIT(A) for adjudication, after providing sufficient opportunity of being heard.

4. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on 20.03.2025

Sd/-  
**(Duvvuru RL Reddy)**  
**Vice President**

Sd/-  
**(Sanjay Awasthi)**  
**Accountant Member**

Dated: 20.03.2025  
AK, P.S.

*Copy of the order forwarded to:*

1. Shree Prakash Singh
2. ACIT, Circle-4, Patna
3. CIT(A)-
4. CIT-
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches