

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/2022
(Assessment Year 2011-12)

Atlantis Medicare Private Limited,

4M/215, First Floor,
Bahadurpur Housing Colony,
Kankarbagh, Patna - 800001
[PAN: AAHCA4150D]

..... **Appellant**

vs.

DC/AC, Circile-1, Patna,

4M/215, First Floor,
Bahadurpur Housing Colony,
Kankarbagh, Patna – 800001

..... **Respondent**

Appearances by:

Assessee represented by : Shri Ravi Shankar, Adv.

Department represented by : Shri 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 30 days in the filing of said appeal before ITAT. This delay has been requested to be condoned as under:

“1. That I have filed an appeal before Hon'ble I.T.A.T, Patna through Form No. 36 of the Income Tax Act 1961.

2. That the time of filing alleged appeal a delay of 30 days crept in due to the reason more-fully described in condonation of delay petition filed before I.T.A.T.

3. That at the time of handing over the appeal form 36 along-with the petition for condonation of delay to the advocate there was the delay of 24 days at that juncture.

4. That the reason more-fully described in condonation of delay petition the Ld. Counsel could not file the allowed Form 36 along with condonation of delay petition on same day and committed delay which caused delay of 30 days.

5. That from the perusal of limitation period right from the date of receipt of the order of CIT (A) till the date of filing the appeal before the Hon'ble I.T.A.T. Patna entire delay is 30 days, whereas the condonations of delay petition kept on record bears the days of delay as 24 days.

6. That in the light of fact and circumstances stated in this affidavit and condonation of delay petition kept on record. Number of delays which really crept in, may kindly be modified treating it to be delay of 30 days.

7. That the reason appeal turned from face to face to faceless mode and all She notices were sent on portal which was not seen by the appellant and the non appearance was neither deliberate nor willful.”

1.1 Considering the reasons mentioned in the condonation petition, the delay is hereby condoned and the appeal is admitted for adjudication.

2 This appeal emanates 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 13.08.2022.

2.1 In this case, the Ld. AO passed an order u/s 143(3)/147 through which the Ld. AO has made an addition u/s 68 of the Act of Rs. 73,63,100/- on account of alleged non confirmation of loans.

2.2 The assessee carried this matter before the Ld. CIT(A) where also he could not succeed mainly because the assessee did not respond to as many as 6 notices sent for hearing.

2.2 The assessee has now approached the ITAT with the following grounds of appeal:

“i) For that the grounds of appeal hereto are without prejudice to each other.

ii) For that the order of the learned Commissioner of Income Tax (Appeal) and also the learned assessing officer is bad both in law and on facts.

iii) For that the learned Commissioner of Income Tax (Appeal) erred in dismissing the appeal in limine only on the ground that the notices issued by him not complied with and that the appellant had a duty to explain the nature of cash deposits in view of the judicial pronouncements referred to and relied upon by him in the appellate order notwithstanding the fact that the appellant failed to enter appearance in course of

appellate proceedings due to reasons beyond his control and that the credits representing unsecured loan as appearing in the books of accounts were received by account payee cheques and confirmation in respect thereof were filed in course of assessment proceedings.

iv) For that in any view of the matter the order of the learned Commissioner of income tax (appeal) is bad in law and is fit to be set aside.”

3. Before us, the Ld. AR pleaded that the assessee has a justified case of proving the loan creditors and that he could not appear before the Ld. CIT(A) due to certain personal and professional exigencies pertaining to the principal officers. He requested for another chance to establish the genuineness of the impugned transactions before the Ld. CIT(A).

3.1 The Ld. DR supported the orders of authorities below and pointed out the adequate opportunity given by the Ld. CIT(A), which was not availed by the assessee.

4. We have carefully considered the documents before us and also heard the rival submissions. We feel that the facts need to be established clearly and fairly at the level of Ld. CIT(A). For this purpose, we set aside the impugned order and remand back this matter to the file of Ld. CIT(A) for fresh adjudication.

5. 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. Atlantis Medicare Private Limited
2. DC/AC, Circile-1, Patna
3. CIT(A)-
4. CIT-
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches