

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

[वर्चुअल कोर्ट]
[Virtual Court]

श्री जॉर्ज माथान, न्यायिक सदस्य
एवं
श्री रकेश मिश्रा, लेखा सदस्य
के समक्ष
Before

**SHRI GEORGE MATHAN, JUDICIAL MEMBER
&
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**I.T.A. No.: 429/PAT/2024
Assessment Year: 2018-19**

Nilu Kumari	Vs.	Assessment Unit, Income Tax Dept.
(Appellant)		(Respondent)
PAN: DVHPK9328A		

Appearances:

Assessee represented by : Manish Sinha, Adv.

Department represented by : None.

Date of concluding the hearing : 18-June-2025

Date of pronouncing the order : 25-June-2025

ORDER

PER RAKESH MISHRA, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of the Commissioner of Income Tax (Appeals)-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 2018-19 dated 29.03.2024,



which has been passed against the assessment order u/s 147 r.w.s. 144B of the Act, dated 06.03.2023.

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

“1. For that the Id. A.O. has erred in passing order in both law and facts assessing the appellant on declared by the appellant. A total income Rs.1,83,65,620/- as against Rs. 1,95,550/-

2. For that the A.O. has erred in rejecting the submission and has added/disallowed on assumption and surmises.

3. For that the A.O. has erred in making addition of Rs.1,81,70,070/- on account of section 69A on account of unexplained money under section of 69A, though case was reopened on the basis of Cash withdrawals (including through bearer's cheque) in current account amounting to Rs. 1,71,43,650.

4. For that the Ld. AO has assumed that all the credit appearing in the Bank account are in the nature of unexplained money under section 69A. The appellant in its written submission bank statement, dated 09/11/2022 and 19/12/2022 has submitted the copies of form 26AS along with the chart showing details of Income earned by way of the salary/commission from NICT Tech P. Ltd. The appellant has been appointed as CSP agent by NICT Tech P Ltd. NICT has been appointed as business correspondent of SBI. The appellant has earned only commission from NICT on which TDS has been deducted and the same is reflected in the form 26AS. The appellant is only the CSP agent duly authorized.

5. For that the nature of deposit and withdrawals are all banking transactions as the Assessee has been working as an agent and for furtherance of banking activities of its parent bank State Bank of India to provide banking facilities in rural areas and in the areas where bank is not reachable through any of its branch or branches.

6. For that the addition of Rs. 1,81,70,070/-is wrong illegal and unjustified on the facts and in the circumstances of the appellant's case. Further the invocation of section 115 BBE is also wrong.

7. For that the Ld. appellate Commissioner has also erred in not allowing the condonation request and thus not hearing the matter on merits of the case. The Id appellate commissioner also erred in not considering the fact that the Appellant is a lady residing in a remote place where electricity, internet etc are not easily available.



8. For that the charging of interest under Section 234A, B & C is wrong, illegal and unjustified on the facts and in the circumstances of the appellant's case.

9. For that the appellant may not be treated as assessee in default in respect of the disputed demand including interest amounting to Rs. 2,94,86,310/-

10. For that the invocation of section 115BBE and charging of tax at the rate of 60% in respect of the additions made is equally wrong, illegal and unjustified.

11. For that the appellant reserves to furnish detailed written submission along with evidences and documents on or before the date of hearing.

12. For that the appellant may be given opportunity of personal hearing physically or virtually as the law permits at the time of hearing of the appeal.

11. For that the whole order is bad in fact and law of the case and is fit to be modified.

12. For those other grounds, if any, shall be urged at the time of hearing of the appeal.”

3. Brief facts of the case are that the assessee is a non-filer. The Assessing Officer (hereinafter referred to as Ld. 'AO') assessed the total income of the assessee at ₹ 1,83,65,620/- u/s 147 r.w.s. 143(3) r.w.s. 144B of the Act. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. CIT(A) who has dismissed the appeal of the assessee on the ground of delay.

4. Rival contentions were heard and the submissions made have been examined. The Ld. AR submitted before us that the assessee is a CSP agent of State Bank of India and during the impugned assessment year she earned commission from NICT Tech Pvt. Ltd. from which salary/commission was being shown in Form No. 26AS. There were transactions of cash deposits in the bank accounts and the withdrawals made from them had been paid to the State Bank of India. However, the deposits in the bank account which related to the State Bank of India



on account of receipts from the customers and payable to the State Bank of India had been added u/s 69A of the Act at ₹1,81,70,070/-. The bank account also shows evidence of withdrawals which had been paid to the State Bank of India yet only the deposit amounts had been added. The copy of bank account, appointment letter with the State Bank of India were submitted before the Ld. CIT(A) but the same were rejected and the appeal was dismissed on account of the delay, which was not condoned by the Ld. CIT(A).

5. None appeared on behalf of the Revenue and the appeal was heard with the assistance of the Ld. AR. The Ld. CIT(A) has not condoned the delay of 281 days as he did not find sufficient cause for the delay. The assessee had submitted that she consulted her Counsel but due to his lack of knowledge, the addition was made. The Ld. AR also did not advise the assessee that the appeal is to be filed against the order and after she consulted a legal advisor in Patna, she was guided to file an appeal before the Ld. CIT(A) but the delay in filing the appeal has not been condoned.

6. We have considered the submission made. The assessee cannot be penalised for incorrect legal advice received from the consultant and therefore, the delay in filing the appeal before the Ld. CIT(A) ought to have been condoned which is hereby condoned. Since proper representation was not made before the Ld. AO, therefore, in the interest of justice, the Bench was of the view that the order of the Ld. CIT(A) as well as of the Ld. AO may be set aside and the matter may be remanded to the Ld. AO to consider the submission made in support of the claim that the money deposited in the bank account was received on behalf of the State Bank of India as CSP agent and was the amount due from the



customers and payable to the State Bank of India. We find that at both the stages of assessment order before the Ld. AO as well as before the Ld. CIT(A) in the appeal, proper representation was not made on behalf of the assessee. The Ld. AR requested that the matter may be remitted to the Ld. AO while the Ld. DR supported the order of the Ld. CIT(A). Therefore, we deem it appropriate in the interest of justice and fair play that another opportunity needs to be provided to the assessee to represent her case properly before the Ld. AO as the assessee claims to have sufficient evidence in support of the relief claimed. We, therefore, set aside the order of the Ld. CIT(A) as well as of the Ld. AO and remit the matter to the Ld. AO to frame the assessment afresh, after affording an opportunity of being heard to the assessee and thereafter pass an order in accordance with law. The assessee shall not seek unnecessary adjournment and shall be at liberty to file all evidence and possession for the relief claimed. For statistical purposes, the appeal of the assessee is allowed.

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

Order pronounced in the open Court on 25th June, 2025.

Sd/-

[George Mathan]
Judicial Member

Sd/-

[Rakesh Mishra]
Accountant Member

Dated: 25.06.2025

Bidhan (P.S.)



Copy of the order forwarded to:

- 1. Nilu Kumari, D/o Siddi Bhagatchowsiya, Govindchak, Sonpur, Saran, Bihar, 841101.**
- 2. Assessment Unit, Income Tax Dept.**
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