

IN THE INCOME TAX APPELLATE TRIBUNAL "PATNA BENCH", PATNA
(VIRTUAL HEARING AT KOLKATA)

SHRI GEORGE MATHAN, JUDICIAL MEMBER
SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER

I.T.A. No. 570/Pat/2024
(Assessment Year 2016-2017)

M/s Avinash Kumar,
Vill, Dashratha, Anisabad,
Patna - 800002 **Appellant**
[PAN: DQHPK6020G]

vs.

National Faceless Appeal Centre,
Delhi,
Office of the Commissioner of Income Tax,
Appeal **Respondent**

Appearances by:

Assessee represented by : None
Department represented by : Shr. Ashwani Kr. Singal, JCIT

Date of concluding the hearing : 24.06.2025
Date of pronouncing the order : 30.06.2025

ORDER

PER SANJAY AWASTHI, ACCOUNTANT MEMBER

1. In this case, there is a delay of 308 days in the filing of the present appeal. The same has been requested to be condoned as under:

"Most respectfully the appellant begs for condonation of delay as under That the appellant is in receipt of demand notice issued u/s 156 of Act by which demand of Rs. 51,07,233/- has been raised on the appellant during the A.Y. 2016-17 vide Assessment Order passed u/s 144 read with section 147 of the act dated 28/02/2019 and the served on the appellant on dated 05/03/2019.

Being aggrieved with said order the appellant has preferred an appeal before the NFAC, Delhi with copy enclosed of statement of facts and ground of appeal. But unfortunately it is also dismissed on 31/08/2023 with the order no. ITBA/NFAC/S/250/2023-24/1055630751(1). This order has been issued u/s 250 of the Income Tax Act, 1961 after 4 years 6 months. The appellant had forgotten. The appellant was also facing medical issue of family members and also death happened (copy enclosed).

It is therefore requested that your honour would be kind enough to consider the condonation of delay and penalty should be kept in abeyance of the balance demand till the disposal of the case and the appellant may not be treated as assessee in default.”

1.1 Considering the reasons given in the said application the delay is hereby condoned and the appeal is admitted for adjudication.

2. This appeal arises from order u/s 250 of the Income Tax Act, 1961 (hereafter “the Act”), passed by Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, vide order dated 31.08.2023.

2.1 None appeared on behalf of the assessee, but it was decided to proceed ahead with the adjudication with the help of Ld. DR since it was seen from the order sheets on record that nobody had been appearing on behalf of the assessee in the past also when this case has been fixed for hearing. The assessee is seen to be aggrieved above all else on account of alleged denial of opportunity before the Ld. CIT(A). this fact was also pointed out by the Ld. DR who drew our attention to paras 4, 5 and 5.1 on pages 2 to 3 of the impugned order, in which it is clearly mentioned that several opportunities given to the assessee were not availed of. Thus, in this manner, even at the level of AO, where it is recorded in para 10 of his order that the assessee did not make any presentation of facts in response to various notices from his office, both the orders of authorities below are exparte orders.

3. We have considered the documents before us and heard the Ld. DR. We feel that in the interest of justice, this matter deserves to be remanded back to the file of Ld. CIT(A) for fresh adjudication. To this extent, we set aside the impugned order and direct that the Ld. CIT(A) will dispose of the impugned issues, after giving an opportunity of being heard to the assessee.

5. With these remarks, appeal of the assessee is allowed for statistical purposes.

Order pronounced on 30.06.2025

Sd/-
(George Mathan)
Judicial Member

Sd/-
(Sanjay Awasthi)
Accountant Member

Dated: 30.06.2025
AK, Sr. P.S.

Copy of the order forwarded to:

1. Avinash Kumar
2. National Faceless Appeal Centre, Delhi
3. Pr. CIT
4. CIT(A)
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches