

IN THE INCOME TAX APPELLATE TRIBUNAL 'Patna' BENCH, PATNA
(Through virtual hearing at Kolkata)

BEFORE SHRI RAJESH KUMAR, AM
AND
SHRI PRADIP KUMAR CHOUBEY, JM

ITA No. 87/PAT/2025
(Assessment Year: 2017-18)

Om Prakash Sha
S/o Sarayug Saw, Karay
Parsurai, Nalanda, Bihar-801304 **Vs.** **ITO , Ward 2(4)**
Biharsharif
(Appellant) **(Respondent)**
PAN No. DFYPS6484C

Assessee by : Shri A.K. Rastogi, AR
Revenue by : Shri Ashwani Kr. Singal, DR

Date of hearing: 07.07.2025
Date of pronouncement: 18.07.2025

ORDER

Per Pradip Kumar Choubey, JM:

This is an appeal preferred by the assessee against the order of the National Faceless Appeal Centre, Delhi (hereinafter referred to as the "Ld. CIT(E)") dated 23.03.2024 for A.Y. 2017-18.

02. It appears from the report of the registry that the appeal has been filed after a delay of 269 days for this the assessee has filed condonation petition, which are as follows-

*"The Income Tax Appellate Tribunal,
Patna Bench,
Patna*

*Reference: Om Prakash Sha, Sto Sarayug Saw, Karay Parsurai, Nalanda
801304, Bihar [PAN: DFYPS6484C] for A.Y. 2017-18*

Subject: Petition for condonation of delay in filing appeal.

Reference: Order of CIT(A), NFAC dated 23/03/2024.

Sir,

The Ld. CIT(A) has passed order in Appeal No. CIT(A),Patna-1/11369/2019-20 on 23/03/2024. It is stated that on 27/01/2025, the appellant has received hard copy of show cause notice u/s 271AAC(1) of the Act, from the office of Income Tax Officer. VU-1(2)(3), Muzaffarpur (stationed at Patna) through Speed Post. Thereafter, on browsing of e-portal the appellant has found the impugned order dismissing the appeal on 23/03/2024 under the tab "For Your Information" whereas normally the orders are uploaded under the tab 'For your action'. There was no communication of uploading of this order either on the registered email or registered mobile no. Thus, the appellant came to know about the adverse order of Ld. CIT(A) only on 27/01/2025. Accordingly, the appellant is filing this appeal which can be said to be a belated appeal, if limitation is counted from the date of its order. However, it is stated that the impugned order came to the knowledge of the appellant on 27/01/2025 and therefore, according to the appellant, the present appeal is not a belated appeal. However, without entering into controversy, it is respectfully submitted that delay, if any, may kindly be condoned and the appeal may kindly be heard on merits.

Submitted"

03. On perusal of the condonation petition, the reason for delay in filing the appeal seems to be genuine and bonafide. The Ld. DR did not raise any objection in condoning the delay. Keeping in view, the condonation petition as well as judicial pronouncement that the case should be decided on merit not on technical issue, the delay is hereby condoned.
04. The brief fact of the case of the assessee is that the assessee is an individual deriving income from trading of sweets, mixtures, handmade bakery biscuits, etc. The assessment order has been passed u/s 144 of the Income-tax Act, 1961 (the Act) on the ground that there has been

deposit of cash in bank during the demonetization period amounting to ₹12,84,250/-. The AO in the assessment proceeding has also noted that there has been a total deposit of ₹76,25,650/- in the bank account of the assessee and assessee did not file return of income. Therefore, the source of cash deposit remains unexplained. Notice u/s 142(1) of the Act was issued to the assessee but there was no compliance, as a result of which the assessment was done by making an addition of ₹76,25,650/-, to the total income of the assessee. Aggrieved by the said order the assessee preferred the appeal before the Id. CIT (A), wherein the appeal of the assessee has been dismissed as further there was no compliance on behalf of the assessee.

05. Being aggrieved and dissatisfied, the assessee has preferred the appeal before us.
06. The Id. AR instead of arguing into the merits of the case only prayed that the appeal of the assessee may be remitted back to the file of the Id. AO after giving an opportunity to the assessee to place all the documentary evidences essential to prove his case.
07. The Id. DR did raise any objection for the same.
08. Upon hearing the submission of the Counsel of the respected parties, and on perusal of the order of lower authorities there is no denying to this fact that order passed by both the authorities when there was no compliance on behalf of the assessee. The prayer of the assessee is that the assessee has to give an opportunity to place his case before the Id. AO. Keeping in view the submission, considering the order passed by the Id. lower authorities and for the interest of justice, we are inclined to restore the appeal of the assessee to the file of the Id. AO for fresh consideration. The assessee is directed to place all the documentary



evidences essentially to prove its case before the Id. AO and the Id. AO is directed to pass a fresh order after hearing the assessee.

09. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 18.07.2025.

Sd/-
(RAJESH KUMAR)
(ACCOUNTANT MEMBER)

Sd/-
(PRADIP KUMAR CHOUBEY)
(JUDICIAL MEMBER)

Kolkata, Dated: 18.07.2025

Sudip Sarkar, Sr.PS

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent
3. CIT
4. DR, ITAT,
5. Guard file.

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Kolkata