

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

[वर्चुअल कोर्ट]
[Virtual Court]

श्री संजय शर्मा, न्यायिक सदस्य
एवं
श्री रकेश मिश्रा, लेखा सदस्य
के समक्ष
Before

**SHRI SONJOY SARMA, JUDICIAL MEMBER
&
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**I.T.A. No.: 436/PAT/2024
Assessment Year: 2018-19**

Sapna Sameer <i>(Appellant)</i>	Vs.	ITO, Ward-2(2), Chapra <i>(Respondent)</i>
PAN: CISPS0250C		

Appearances:

Assessee represented by : Chaman Kr. Mishra, AR.

Department represented by : Ashwani Kr. Singal, JCIT.

Date of concluding the hearing : 17-July-2025

Date of pronouncing the order : 04-August-2025

ORDER

PER RAKESH MISHRA, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of the CIT(A)-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 05.04.2024, which has been passed against the



assessment order u/s 143(3) r.w.s. 143(3A) and 143(3B) of the Act, dated 12.04.2021.

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

“a. The AO failed to appreciate that the Books of Account of the assessee were duly Audited and tax audit was filed in due time. Also the tax Audit report mentions the books of account kept by assessee and examined by the Auditor. Therefore due to mere non production of Books of Account before the AO at the time of scrutiny does not negate the fact that there were no Books of Account maintained by assessee. (A copy of Form 3CB is enclosed). Without rejecting Books of Accounts and passing an order u/s 144 the AO has added a sum of Rs. 10370391/- arbitrarily.

b. The natural justice has been denied to the assessee as without examination of Books of Accounts and Influence has been drawn that the cash deposit during the Assessment year 18-19 of Rs. 106092841/- was unexplained when the facts are contrary. The average monthly sale of assessee is more than Rs. 14074423/- and there is no reason without examining the cash book to ascertain that there was no cash available in the cash book to be deposited. Therefore the addition of Rs.10370391/- as unexplained income be examined and requested to be deleted.

c. Demand calculated by A.O. is Prejudicial to assessee and, if appeal is not allowed to be proceeded it amounting to against the law

d. Further to our ground narrated in Grounds of Appeal, we submit as below:-

i) A copy of tax audit report already filed on the portal.

ii) A copy of Balance Sheet, Profit and loss account duly signed by Auditor and proprietor.

iii) A copy of Bank Statement of UCO Bank A/c No. 04850210000779

iv) A copy of Bank Statement of Central Bank A/c No. 3451920397.

v) GST return of Both Firm Shri Krishn Fuel Centre and S MART.

vi) Copy of Cash book.”

3. Brief facts of the case are that the assessee had filed the return of income showing total income of Rs. 30,50,140/- and as mentioned in the statement of facts, the case was selected for limited scrutiny with the reasons "Large cash deposits in bank account(s)". The assessee failed to respond to the notices issued and the Ld. AO made addition on



account of 8% of total receipts of Rs 16,88,93,079/-, which comes to Rs 1,35,11,446/- and as the assessee had already declared Rs 30,50,140/- in her ITR, so the difference of Rs. 1,03,70,391/- was added to the total income of the assessee. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. CIT(A) and the Ld CIT(A) vide order dated 05/04/2024 confirmed the addition as the assessee did not respond to the notices issued for hearing of the appeal. Aggrieved with the order of the Ld. CIT(A), the assessee has filed the appeal before the Tribunal.

4. Rival submissions were heard and the record and the submissions made have been examined. It was submitted before us by the Ld. AR that the assessee had maintained books of account, the audit was conducted, but inadvertently while filing the return of income, the relevant column had been filled as 'Not Audited'. Further, as is mentioned in the Statement of Facts filed, the reason of non-compliance to the notices issued by the Ld. CIT(A) was that the earlier counsel of the appellant had expired on 15th June 2020 and the papers and related documents were lying in his office and during the first COVID pandemic period no person came forward in his office to collect the papers and documents and no compliance could be made by the assessee. It is submitted that the assessee is a regular taxpayer and had filed her return for A.Y. 2018-19 on 31.10.2018 accompanied with the Tax Audit Report duly filed, declaring total income of Rs. 30,50,140/- and had also paid the self-assessment tax. The Proprietorship firm of the assessee namely Shri Krishn Fuel Centre and S MART having GSTIN-10CISPS0250CIZN and 10CISPS0250C2ZM respectively are engaged in the business of petroleum products and trading of grocery and clothes etc. respectively. On the basis of cash



deposits during the period relevant for assessment year 2018-19, the case was selected for limited scrutiny. The notices were issued and due to the death of accountant/consultant, the assessee failed to produce Books of accounts before the Ld. AO. However, the assessee herself had appeared before the Ld. AO and produced Audit report, confirmation of accounts, Bank Accounts etc. On the Basis of the ITBA information, the Ld. AO found that during the assessment year, a sum of Rs. 10,60,92,841/- had been deposited in the bank account which was treated as unexplained, even though the turnover of Rs. 16,88,93,079/- was shown as per the Audit Report during the period. The Ld. AO added the additional income by taking 8% of total deposits which were treated as the turnover. In the course of the hearing before us, the Ld. AR's attention was drawn to Page 6, para ix of the order of the Ld. CIT(A), which is extracted as under:

“ix. This appellate authority has noted that:

- a. The appellant assessee has not uploaded her balance sheet with her ITR on the IT Portal and has also not submitted proper audited balance sheet to this authority, as the Balance sheet submitted by the appellant assessee is unsigned.*
- b. The appellant assessee has not submitted her cash book in source of cash deposited neither to the Assessing officer nor to this appellate authority.*
- c. The appellant assessee has not submitted any documents or proofs to the Assessing officer or this appellate authority like sale invoices, VAT returns to substantiate the figures of sales of Rs 16,00,00,000/- out of which of Rs 10,60,92,841/- cash were deposited in the bank.*
- d. The appellant assessee has not submitted information related to cash specifically asked by the assessing officer in tabulated form (the table being reproduced in the previous pages of this order).”*

5. The Ld. AR submitted that only the bank statement was filed and requested that if the assessee is given another opportunity, the relevant documents would be submitted. The Ld. DR, on the other hand, argued



that since no submission was made either before the Ld. AO or even before the Ld. CIT(A), the order of the Ld. CIT(A) may be upheld.

6. We have considered the submissions made, gone through the facts of the case and perused the record and the order of the Ld. CIT(A). 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 could not be 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). After considering the facts of the case, 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 and the audit report was also available for the books of accounts which were audited. We, therefore, set aside the order of the Ld. CIT(A) as well as of the Ld. AO and remand 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 in her possession for the relief claimed. For statistical purposes, the appeal of the assessee is allowed.

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

Order pronounced in the open Court on 4th August, 2025.

Sd/-

[Sonjoy Sarma]

Judicial Member

Dated: 04.08.2025

Bidhan (Sr. P.S.)

Sd/-

[Rakesh Mishra]

Accountant Member



Copy of the order forwarded to:

1. **Sapna Sameer, Flat No-601, Ram Dayal Enclave, Saguna More, R.K.Puram, Patna, Bihar, 801503.**
2. **ITO, Ward-2(2), Chapra.**
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