

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

SHRI MANOMOHAN DAS, JUDICIAL MEMBER
SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER

I.T.A. No. 14/GTY/2025
Assessment Year: 2017-18

Debashish Biswas (Deceased),

C/o PC Bothra Advocate,
Opposite Nehru Maidan,
Near Petrol Pump,
Tezpur (Assam)- 784001
[PAN: ACOPB8895J]

.....**Appellant**

vs.

Income Tax Officer,

New Aaykar Bhawan, X-Polie Line,
Tezpur (Assam) - 784001

..... **Respondent**

Appearances by:

Assessee represented by : P.C. Bothra, Advocate
Department represented by : Kausik Ray, JCIT

Date of concluding the hearing : 28.07.2025
Date of pronouncing the order : 06.08.2025

ORDER

PER SANJAY AWASTHI, ACCOUNTANT MEMBER:

1. In this case, there is a delay in the filing of the present appeal which has been requested for condonation as under:

“I, Mousumi Biswas, wife of late Debashish Biswas, aged about 51 years, do hereby solemnly affirm, declare and state on oath as under:

1. That I am the legal representative of my husband Debashish Biswas (deceased) who was running a pharmacy under the name & style of 'M/s. Seven Sisters Pharmaceuticals' at Main Road, P.O. Dhekiajuli, Dist. Sonitpur, Assam. This is true and correct.

That my late husband Debashish Biswas died in a car accident on 09/01/2020

as fully described in my condonation petition. This is true and correct.

3. That a delay of 19 days took place in filing the 2nd Appeal before the Hon'ble Income Tax Appellate Tribunal, Gauhati Bench, Guwahati against the ex-parte Order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi U/s. 250 without providing actual and sufficient opportunity of hearing. This is true and correct.

4. That this Affidavit shall be submitted in support of my condonation petition for delay in filing the 2nd appeal before the Hon'ble Income Tax Appellate Tribunal, Guwahati Bench, Guwahati. This is true and correct.

5. The statements made in abovementioned Para 1 to 4 are true to the best of my knowledge, belief and information.

I, Mousumi Biswas, W/o. Late Debashish Biswas do hereby solemnly affirm that the averments made in Para 1 to 4 are true and correct to the best of knowledge, belief and information and I swear and sign this Affidavit on this 27nd day of January, 2025 at Tezpur.”

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

2. The present appeal emanates from the order under Section 250 of Income Tax Act, 1961 (hereafter “the Act”) passed by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereafter “the Ld. CIT(A)”], dated 15.10.2024.

2.1 In this case, the Ld. AO passed an order dated 23.12.2019, under Section 144 of the Act. Through this order, deposits made in State Bank of India, Dhekiajuli Branch, amounting to Rs. 7,25,63,175/- were subjected to a net profit estimation @ 10% and an addition of Rs. 72,56,320/- was made as under-reported income.

2.1 Before the Ld. CIT(A), the assessee could not make any presentation of facts inspite of several notices issued fixing the dates of hearing. Thereafter, the Ld. CIT(A) confirmed the addition, leading to the present appeal before the ITAT.

2.2 The assessee has challenged the action of Ld. CIT(A) with the

following grounds:

“1. That the impugned order issued by the CIT(A) NAFC is fundamentally flawed due to misapprehension misinterpretation of the facts and a failure to properly apply or appreciate the relevant legal principles. This resulted in a violation of the principles of natural justice, rendering the order legally unsound, arbitrary, and erroneous.

2. That the CIT(A), NAFC should have taken into account that no valid notice U/s. 143(2) of the Income Tax Act was served in the instant case. As such, the impugned order of CIT(A), NAFC which confirmed the order of AO is required to be annulled.

3. That the CIT(A), NAFC erred by holding that uploading notice/s to the Income Tax website and/or email, without any other mode of service, constituted valid service. Consequently, the appellant, a widow, remained unaware of these proceedings for AY 2017-18.

4. That the CIT(A), NAFC erred in confirming the AO's ex-parte order, which estimated income at Rs. 72,56,317/-, based on 10% of the total deposit of Rs. 7,25,63,175/- in SBI, Dhekiajuli (Current Account No. 11252130441) during AY 2017-18, purportedly under Section 44AD of the Income-tax Act. These figures are incorrect, concocted, and imaginary.

5. That the CIT(A) fundamentally misapprehended the facts of the case, failing to verify the quantum of deposits in the SBI Bank Account and overlooking the Assessing Officer's (ITO) demonstrable lack of application of mind and abuse of process. Consequently, there exists no legal impediment to allowing this appeal, and the impugned demand should be entirely quashed.

6. The Appellant respectfully reserves the leave to amend, alter, modify, or supplement any prior submissions and to adduce additional evidence as deemed necessary.”

3. Before us, the Ld. AR averred that due the unfortunate demise of the assessee, the proceedings could not be diligently pursued before the authorities below. It was averred that the addition made was excessive and was not in consonance with the facts of the case. It was also argued that there were several facts available before the authorities below to have enabled them to arrive at a true and correct picture of taxable income, which they did not do.

3.1 The Ld. DR relied on the orders of authorities below.

4. We have carefully considered the rival submissions and have gone through the records before us. We find that the assessee has suffered due

to non-attendance before the authorities below. In result, in the interests of substantive justice, we deem it fit to set aside the impugned order and remand the same back to the file of Ld. AO for fresh assessment, after giving an opportunity of being heard to the assessee.

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

Order pronounced on 06.08.2025

Sd/-
[Manomohan Das]
Judicial Member

Sd/-
[Sanjay Awasthi]
Accountant Member

Dated: 06.08.2025
AK, Sr. PS

Copy of the order forwarded to:
1. Debashish Biswas (Deceased)
2. Income Tax Officer
3. CIT(A)-
4. CIT-
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches