

**IN THE INCOME TAX APPELLATE TRIBUNAL, RANCHI BENCH, RANCHI**

BEFORE SHRI DUVVURU RL REDDY, VICE PRESIDENT AND  
SHRI RATNESH NANDAN SAHAY, ACCOUNTANT MEMBER

I.T.A. No. 28/Ran/2025 (Assessment Year-2017-18)

(Virtual Hearing)

Najam UZ Zaman Khan, Church Road, P.S. Lower Bazar, P.O. Ranchi, Ranchi-834001 (Jharkhand) <b>PAN No. AJVPK 1820 C</b>	Vs.	I.T.O., Ward 2(1), Ranchi.
Appellant/ Assessee		Respondent/ Revenue

Assessee represented by	Shri M.K. Choudhary, Adv with Shri Zafar Iqbal, A.R.
Department represented by	Shri Khubchand T. Pandya, Sr.DR
Date of hearing	22/07/2025
Date of pronouncement	04/08/2025

**ORDER**

**PER: RATNESH NANDAN SAHAY, A.M.**

1. This appeal by the appellant is directed against the order of National Faceless Appeal Centre, Delhi (NFAC)/ learned Commissioner of Income Tax (Appeals), [in short, the Id. CIT(A)] dated 31/07/2024 for the Assessment Year (AY) 2017-18. In this appeal, the appellant has raised following grounds of appeal:

- "1. 69A Whether addition u/s 69A could have been made when in effect there was no increase in the bank balances. For that Ld. AO was not justified in making addition of Rs. 35,66,570/- u/s 69A since the appellant had taken loan from the bank, the source s of which cannot be said to be unexplained. Moreover, at the closing of the year there was no increase in the bank balances. As such the addition made is unjustified, illegal and incorrect.
2. 144 Whether Ld. AO was unjustified in passing an ex parte order. For that Ld. AO was not justified in making assessment in haste, though it was not a time bar ring assessment in the month of July. If had an y doubts, he could have made further queries, before the counsel appearing before him. As such the ex parte order passed is unjustified and uncalled for.
3. 69A Whether the source of the amount deposited in the bank account was explained. For that Ld. had erred in not appreciating that t he sources of the deposits made in the bank account were duly available in the books of

*accounts and the amounts other than sales, were through banking channel or cash deposit out of cash withdrawals. As such the addition made is un justified, illegal and incorrect.*

4. *234B Whether the interest u/s 234B should have been charged on returned income and not on assessed income. For that Ld. AO was not justified in giving direction for charging of Interest u/s 234B, on tax payable on returned income instead of tax payable on assessed income and in not following judicial precedence laid down by Hon'ble Jharkhand High Court in its order Dtd.25 July, 2012, in Tax Appeal No.38 of 2010, in the case of Sri Ajay Prakash Verma vs. Income Tax officer, Range-1, Ward-1, Dhanbad reported in MA NU/JH/2120/2012, 2013 (4) J:L.J.R. 389 (Jharkhand) and the decisions of jurisdictional Hon'ble ITAT.*
  5. *250 Whether the appellant can adduce additional Grounds or evidences at the time of hearing. For that appellant caves leave to add, amend or take up any other ground(s) or adduce evidences, if any, at the time of hearing."*
2. At the outset of hearing, the learned Authorised Representative (Id. AR) of the appellant admitted that there was no compliance by the appellant both before the Assessing Officer and the Id. CIT(A) due to unavoidable reason and one more opportunity may be provided to the appellant to explain its case before the Assessing Officer as the assessee has sufficient material to explain the source of the deposits.
  3. On the other hand, the learned Senior Departmental Representative (Id. Sr.DR) for the revenue supported the orders of the lower authorities and stated that sufficient opportunities have already been provided to the assessee, but no compliance was made. Thus, the assessee does not deserve any leniency and the order of the Id. CIT(A) may be upheld.
  4. We have considered the submissions of both the parties. We have also gone through the orders of the lower authorities carefully. We find that both the lower authorities i.e. the Assessing Officer and the Id. CIT(A) have passed *ex parte* orders. The Id. AR of the assessee submitted that since both the lower authorities have passed *ex parte* orders, therefore, the matter may be restored

back to the file of Assessing Officer for deciding the issue afresh. Though, it is a fact that there was no compliance on the part of the appellant before both the lower the lower authorities, the facts remain that the income tax laws are within the ambit of welfare legislation which are absolutely separate from penal legislation and therefore, given the facts and circumstances and as per applicable law, benefit of doubt has to be attributed to the assessee/tax payer. There may be circumstances beyond the control of assessee or "vis major" because of which the assessee may not have able to comply with the notices before the revenue authorities. Under the given facts on record, which cannot be said that such non-compliance was deliberate or malafide on the part of assessee. Considering the facts and circumstances of the case and keeping in view the principles of natural justice, the matter is restored to the file of Id. CIT(A) for deciding the issue afresh in accordance with law. Needless to direct that before passing the order, the Id. CIT(A) shall grant reasonable opportunity of being heard to the assessee. The assessee is also directed to avail this opportunity and not to cause further delay and seek adjournment without any valid reasons and to furnish all the details and evidences to justify various grounds of appeal raised by him. In the result, the grounds of appeal raised by the assessee are allowed for statistical purposes.

5. In the result, this appeal of assessee is allowed for statistical purposes only.

Order pronounced in open court on 04/08/2025.

Sd/-  
(DUVVURU RL REDDY)  
VICE PRESIDENT

Sd/-  
(RATNESH NANDAN SAHAY)  
ACCOUNTANT MEMBER

Ranchi, Dated: 04/08/2025

*\*Ranjan*

Copy to:

1. Assessee
2. Revenue
3. CIT
4. DR
5. Guard File

By order

Sr. Private Secretary, ITAT, Ranchi