

IN THE INCOME TAX APPELLATE TRIBUNAL
“PATNA BENCH, PATNA
VIRTUAL HEARING AT KOLKATA

Before Shri Sonjoy Sarma, Judicial Member and Shri Rakesh Mishra, Accountant Member

I.T.A. No.220/Pat/2023
Assessment Year: 2016-17

Abinash Jha.....Appellant

Flat No.304, Gauri Shankar Complex,
Lohiya Nagar, Kankarbagh, Patna
Bihar- 800020.

[PAN: AFPPJ3114G]

vs.

ITO, Ward-4(5), Patna..... Respondent

Appearances by:

None appeared on behalf of the appellant.

Smt. Rinku Singh, CIT-DR, appeared on behalf of the Respondent.

Date of concluding the hearing : August 20, 2025

Date of pronouncing the order : September 1st, 2025

आदेश / ORDER

Per Sonjoy Sarma, Judicial Member:

This appeal by the assessee is directed against the order dated 11.05.2023 passed by the NFAC under section 250 of the Income-tax Act, 1961.

2. At the outset, it is noted that there is a delay of 4 days in filing the present appeal before the Tribunal. The assessee has filed a condonation petition explaining the reasons or such delay. After considering the submissions and materials on record, we are satisfied that there was reasonable cause for the delay in filing the appeal. Accordingly, the said delay is condoned, and the appeal is admitted for adjudication.

3. Brief facts of the case are that the assessee is an individual and for the assessment year 2016-17, the assessee filed his return of income declaring total income of Rs.7,08,010/- after claiming Chapter VIA deduction. Subsequently, the case was selected for Scrutiny through CASS and statutory notices under sections 143(2) and 142(1) were issued calling for details and documents in respect of expenses. The AR of the assessee responded to the said notices but failed to submit books of accounts of the business of the assessee. On the perusal of the 26AS of the assessee, the Assessing Officer found that the assessee executed works contract totalling to Rs.1,28,13,369/- and the assessee has disclosed gross receipt from job work in his return of income only Rs.1,05,03,289/- against the said actual gross receipt. Due to non-compliance and in the absence of audited books of account, balance sheet etc., the Assessing Officer added a difference sum of Rs.23,10,080/- [(Rs.1,28,13,369/- - Rs.1,05,03,289/-)] to the total income of the assessee.

4. Aggrieved by the above order, the assessee filed an appeal before the ld. CIT(A) where the appeal of the assessee was dismissed due to non-compliance by simply sustaining the order of the Assessing Officer.

5. Dissatisfied with the above order, the assessee is in appeal before this Tribunal. At the time of hearing, the assessee did not turn up before this Bench. Although, Registry has issued various notices to the assessee. As no one turned up at the time of hearing, we cannot keep this appeal pending for inordinate period, therefore, we heard this matter with the assistance of the ld. DR.

6. The ld. DR stated that the assessee is a habitual defaulter and it did not turn up before the ld. CIT(A) and even before this Bench, therefore, the appeal needs to be dismissed in limine.

7. We, after hearing the ld. DR and perusing the materials available on record, find that although the assessee did not turn up before the authorities below, however, the ld. CIT(A) passed the impugned order ex parte without going into the merits of the case by simply dismissing the appeal of the assessee, which is contract to the provisions of law. We, therefore, in the interest of justice and fair play, feel it necessary to remand the matter back to the whole issue to the file of the Assessing Officer with a direction to re-examine the issue afresh after giving reasonable opportunity of being heard to the assessee. We direct the assessee to comply all notices and submit all the necessary documents during the remand proceedings.

8. In terms of the above, the appeal of the assessee is allowed for statistical purposes.

Kolkata, the 1st September, 2025.

Sd/-

[Rakesh Mishra]

लेखा सदस्य/Accountant Member

Sd/-

[Sonjoy Sarma]

न्यायिक सदस्य/Judicial Member

Dated: 01.09.2025.

Copy of the order forwarded to:

1. Appellant -
2. Respondent -
3. CIT (A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches