

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

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

I.T.A. No. 252/PAT/2025
(Assessment Year 2016-17)

&

I.T.A. No. 253/PAT/2025
(Assessment Year 2017-18)

Sharwan Kumar Daruka,
Marwari Tola, Amarpur, Banka,
Bhagalpur (Bihar)- 813101
[PAN: AEWPD9770L]

..... **Appellant**

vs.

Commissioner of Income Tax (Appeals),
Patna,
Dak Banglo Chowk, Patna-3,
Patna-800001

..... **Respondent**

Appearances by:

Assessee represented by : Shri Pankaj Kumar, AR
Department represented by : Shri Rajat Datta, CIT-DR

Date of concluding the hearing : 16.09.2025
Date of pronouncing the order : 18.09.2025

ORDER

PER SONJOY SARMA, JUDICIAL MEMBER

Both these appeals, being ITA No. 252/Patna/2025 for Assessment Year 2016–17 and ITA No. 253/Patna/2025 for Assessment Year 2017–18, are filed by the same assessee against two separate orders of the learned CIT(A), both are dated 26.03.2025.

2. Since the issues involved in both the appeals are identical, arising out of assessment orders passed under section 153C read with section 144 of the Act in the case of the same assessee, except for variation in figures

and assessment years, both appeals were heard together and are being disposed of by this consolidated order.

3. For the sake of convenience, we first take up ITA No. 252/Patna/2025 for A.Y. 2016-17 as the lead case, and our findings therein shall mutatis mutandis apply to ITA No. 253/Patna/2025 for A.Y. 2017-18. Brief facts of the Case are that the Assessing Officer passed assessment order on 10.12.2019 under section 153C read with sections 153A/144 of the Act. In the said order, certain additions were made, including ₹56,732/- and ₹1,00,480/- on account of unexplained credits in savings bank account, thereby determining total income of the assessee at ₹ 3,92,972/- for the AY 2016-17.

4. Aggrieved, the assessee preferred appeal before the learned CIT(A). However, the learned CIT(A) dismissed the appeal due to non-prosecution, thereby sustaining the order of the Assessing Officer.

5. The assessee has now preferred appeal before this Tribunal, raising multiple grounds. The primary contention is that the order of the learned CIT(A) is ex parte and passed without adjudicating the issues on merits. Therefore, another opportunity should be given to the assessee to substantiate his claim.

6. On the other hand, the learned DR supported the order of the learned CIT(A) and submitted that the assessee repeatedly failed to appear despite service of notices, and hence the CIT(A) was justified in dismissing the appeal.

7. We have considered the rival submissions and perused the record. It is evident that the learned CIT(A) dismissed the appeal ex parte, without

examining the issues raised on merits. In our considered view, such an approach is contrary to the provisions of law. The first appellate authority is duty-bound to adjudicate the grounds of appeal on merits, even in case of non-appearance by the assessee.

8. Accordingly, in the interest of justice and fair play, we set aside the impugned order of the learned CIT(A) and restore the matter to his file with a direction to decide the appeal afresh on merits, after affording reasonable opportunity of being heard to the assessee. The assessee is also directed to appear and cooperate in the appellate proceedings.

9. In the result, both the appeals of the assessee are allowed for statistical purposes.

Order pronounced on 18.09.2025

Sd/-
(Rakesh Mishra)
Accountant Member

Sd/-
(Sonjoy Sarma)
Judicial Member

Dated: 18.09.2025

AK, Sr. P.S.

Copy of the order forwarded to:

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

//True copy//

By order

Sr. Private Secretary/Assistant Registrar, Patna Bench