

आयकर अपीलीय अधिकरण, राँची न्यायपीठ, राँची

**IN THE INCOME TAX APPELLATE TRIBUNAL RANCHI BENCH, RANCHI
BEFORE SHRI GEORGE MATHAN, JM & SHRI RATNESH NANDAN SAHAY, AM**

आयकर अपील सं./ITA No.164 to 170/RAN/2024

(निर्धारण वर्ष / Assessment Years :2015-2016 to 2021-2022)

ACIT, Central Circle, Dhanbad	Vs.	Nextgen Health Solution Pvt Ltd 4 th Floor, 52, Weston Street, Kolkata, West Bengal-700012
स्थायी लेखा सं./PAN No. : AADCN 4830 B		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
राजस्व की ओर से /Revenue by	:	None
निर्धारिती की ओर से /Assessee by	:	None
सुनवाई की तारीख / Date of Hearing	:	07/10/2025
घोषणा की तारीख/ Date of Pronouncement	:	07/10/2025

आदेश / ORDER

Per Bench :

These are the appeals filed by the revenue against the separate orders passed by the Id. CIT(A), Patna-3, all dated 27.02.2024, for the assessment years 2015-2016, 2016-2017, 2017-2018, 2018-2019, 2019-2020, 2020-2021 & 2021-2022, respectively.

2. None for the assessee. The Id. CIT-DR also sought adjournment in these cases on the following grounds :-



**GOVERNMENT OF INDIA
OFFICE OF THE COMMISSIONER OF INCOME-TAX (APPEALS)-3, PATNA
3rd Floor, Lok Nayak Jai Prakash Bhawan, Fraser Road, PATNA**

F.No. CIT(A)-3/Pat/Misc./2025-26/ 474

Dated, 03rd October, 2025

To,

The Hon'ble Members,
ITAT, Ranchi Bench,
Ranchi

Kind atten: The Registrar, ITAT, Ranchi Bench, Ranchi

Sirs,

Sub: Request for adjournment on administrative grounds:

As per order of Pr. Chief Commissioner of Income-Tax (B&J), Patna dated 26.09.2025, I have been directed to perform duty as CIT(DR) from 06.10.2025 to 10.10.2025 on rotational basis. In the following cases appeal orders have been passed by this office. In some cases, appeals of the same assessee's are pending with the undersigned for other assessment years. Hence, these cases cannot be argued by the undersigned. A short adjournment of 10 days may please be granted so that another CIT (DR) may attend to these cases.

Encl: List of cases.

Yours faithfully,

Jain

(Rajib Jain)
Commissioner of Income-Tax (Appeal)-3
Patna

3. The number of cases posted during the week is nearly 250, out of the same, on daily basis, nearly in 72 to 75% of the cases, adjournments are being sought. As the Bench was constituted and the same was also intimated much in advance and the adjournment has been sought in the last minute, therefore, the adjournment applications are being rejected.

4. It may also be worthwhile to mention here that another reason given by the Id. CIT-Departmental Representative for adjournment is that in some of the appeals, orders have been passed by the office of the impugned CIT-DR personally. Here, it is to be mentioned that in respect of the orders of the Id. CIT(A), which have been challenged by the revenue, it can be said that it would be difficult for the Id. CIT-Departmental Representative to defend such orders, in so far as he would be arguing against his own orders. But in such cases, where the orders have been passed against the assessee and the assessee is in appeal, we find no reason as to why the Id. CIT-DR would not be able to defend his own orders. In any case orders have been issued against the assessee. When this was put to the Id. CIT-DR, it was a submission that should the Tribunal pass an order reversing the order of Id. CIT(A), he could be questioned under administrative provisions. This does not stand to be a reason, in so far as the appeal provisions have been provided by the statute. It is human to err. If there is no order passed by the Assessing Officer, then obviously post of CIT(A) is required and if there is no order of Id. CIT(A), there is no requirement of the Tribunal so on and so forth. Various stages of appeals are provided so that necessary proceedings are available for both the assessee and the

revenue to defend their stands. Decisions taken by the appellate authority as a judicial or quasi judicial forums, are not subject to administrative reviews. Appeal provisions are provided by the statute. It would also be worthwhile to mention here that repeatedly the courts have been holding that the Id. CIT(A) are quasi judicial authorities and no administrative pressure can be put on them to decide any issues in any specific manner. We are of the view that such apprehension of the Id. CIT-DR is unfounded. Consequently, the submission of the Id. CIT-Departmental Representative was that he is recusing from the arguments. His plea is accepted. The matters are disposed off on merits on the basis of records and documents available before the Tribunal, ex-parte qua the assessee and the revenue.

5. We have perused the assessment order as well as the order of the Id. CIT(A). A perusal of the order of the Id. CIT(A) shows that the Id. CIT(A) has applied the decision of Hon'ble Supreme Court in the case of *Abhisar Buildwell Pvt. Ltd.*, reported in 452 ITR 212 (SC)/149 taxmann.com 399 (SC) on the ground that there is no incriminating material. A perusal of the assessment orders in all the case shows that as a consequence of search at the official address of the assessee company, it was found that no such physical office with the office related paraphernalia was found to be existing in the premises. The assessment order also shows that upon opening the shop, it was found that certain sacks with readymade garments and curtains were kept in the shop. No books of accounts, computers or any note book etc., was found in the shop during the search. Simultaneous search has been done on the office-cum-residential premises of Chartered

Accountant Sri Prasanta Kumar Roy Barman, wherein he has admitted that he has signed the audit report without examining the same. The statements of Sri Prasanta Kumar Roy Barman and others were also recorded at the search premises and they have admitted the modes operandi. The fact remains that incriminating material in the form of statement of bogus audit, non-existence of the company have also been found in the course of search. This has not been considered by the Id. CIT(A) when he has applied the principle laid down by the Hon'ble Supreme Court in the case of Abhishar Buildwell Pvt. Ltd., referred to supra. It must also be mentioned here that in regard to the issue of treating the assessee to be a commission agent earning @ 0.15% commission, the Id. CIT(A) has accepted the fact that the assessee himself shows that it is a paper company and the commission rate applied is on the higher side. In the present case, as so much evidence is available and these are incriminating in nature, we are of the view that the Id. CIT(A) has erred in applying the principle laid down by the Hon'ble Supreme Court in the case of Abhishar Buildwell, referred to supra. Consequently, as there are incriminating materials found and relied upon by the AO in his assessment order, the order of the Id. CIT(A) stands reversed. It must be mentioned here that there is no finding of the Id. CIT(A) on merits, therefore, the issues in all these appeals are restored to the file of the Id. CIT(A) for readjudication on merits of the addition.

6. In the result, all appeals of the assessee are partly allowed for statistical purposes.

Order dictated and pronounced in the open court on 07/10/2025.

Sd/-

(RATNESH NANDAN SAHAY)

लेखा सदस्य / ACCOUNTANT MEMBER

Sd/-

(GEORGE MATHAN)

न्यायिक सदस्य / JUDICIAL MEMBER

राँची Ranchi; दिनांक Dated 07/10/2025

Prakash Kumar Mishra, Sr.P.S.

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant- .
2. प्रत्यर्थी / The Respondent-
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, राँची / DR, ITAT, Ranchi
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

**(Senior Private
Secretary)**

आयकर अपीलीय अधिकरण, राँची / ITAT, Ranchi