

**IN THE INCOME TAX APPELLATE TRIBUNAL
PATNA BENCH AT KOLKATA**

[Virtual Court]

Before

**MS. MADHUMITA ROY, JUDICIAL MEMBER
&
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**I.T.A. No.: 352/PAT/2025
Assessment Year: 2017-18**

Dinesh Prasad <i>(Appellant)</i>	Vs.	ITO, Ward-3(1), Gaya <i>(Respondent)</i>
PAN: AQEPP8246M		

Appearances:

Assessee represented by : A.K. Rastogi, Sr. Adv.

Department represented by : Ashwani Kr. Singal, JCIT.

Date of concluding the hearing : 06-October-2025

Date of pronouncing the order : 07-October-2025

ORDER

PER RAKESH MISHRA, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of the Commissioner of Income Tax (Appeals)-NFAC, Delhi [hereinafter referred to as Ld. 'CIT(A)'] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for AY 2017-18 dated 31.05.2025, which has been passed against the assessment order u/s 144 of the Act, dated 23.12.2019.

2. The assessee is in appeal before the Tribunal raising the following grounds of appeal:

"1. For that the Ld. CIT(A), NFAC has erred in dismissing the appeal without any notice of hearing and/or any notice calling for written submission which is the normal practice during faceless regime.



2. For that the Ld. CIT(A), NFAC has thus erred in dismissing the appeal by an ex-parte order in utter violation of statutory provisions, Circular/Instruction of the CBDT during faceless regime besides violating the basic Principles of Natural Justice which requires opportunity of hearing and/or opportunity for submitting written submission before passing of any adverse order.

3. For that the Ld. CIT(A), NFAC has erred in not restoring the matter back to the file of A.O. even after noticing the fact that compliance could not be made and/or details could not be furnished before the A.O. due to unavoidable circumstances.

4. For that the Ld. CIT(A), NFAC has erred in sustaining addition of Rs.53,52,000/-made by the A.O. u/s 68 of the Income Tax Act.

5. For that the Ld. CIT(A), NFAC has erred in ignoring the legacy history of the appellant and the subsequent year returns while confirming the addition u/s 68 of the Act.

6. For that the Ld. CIT(A), NFAC has erred in affirming the invocation of section 68 by the A.O. which in the present case is not applicable and thus, the very sustenance on addition u/s 68 amounting to Rs.53,52,000/- is contrary to the mandatory provisions of the Act.

7. For that the Ld. CIT(A), NFAC has erred in affirming the invocation of section 115BBE in respect of addition of Rs.53,52,000/- despite the fact that the source of deposit stands fully explained to have come out of business transaction.

8. For that the whole order is bad in fact and law of the case and is fit to be restored back to the A.O. as the A.O. has resorted to ex-parte order u/s 144 and the CIT(A) has also passed an ex-parte order that too without issuing any notice of hearing and/or allowing any opportunity of being heard.

9. For that other grounds, if any, shall be urged at the time of hearing of the appeal.”

3. Brief facts of the case are that the assessee is an individual deriving income from business and income from other sources and had filed the return of income showing total income of ₹ 4,99,910/- after claiming deduction under chapter VI-A. The case was selected for scrutiny and in the absence of proper documentary evidence along with bills and vouchers, the Ld. AO rejected the books of account and after



invoking the provisions of section 145 (3) of the Act made an addition of ₹ 53,52,000/- and the total income was assessed at ₹ 58,51,910/- Aggrieved with the assessment order, the assessee preferred an appeal before the Ld. CIT(A), who vide order dated 31.05.2025 dismissed the appeal as the Assessing Officer had issued notices under section 133(6) to correlate the genuineness of the transactions and even during the appeal proceeding, the assessee failed to explain the detailed reason for not submitting the information as called for by the Ld. AO and the source of cash deposit made in the bank accounts remained unexplained. Aggrieved with the order of the Ld. CIT(A), the assessee has filed the appeal before the Tribunal.

4. Rival submissions were heard and the record and the submissions made have been examined.

5. At the outset the Ld. AR submitted that both at the time of assessment as well as before the Ld. CIT(A), proper representation was not made and in fact, no notice was issued by the Ld. CIT(A). A perusal of the order of the Ld. CIT(A) shows that there is no mention of any notice being issued to the assessee. The Ld. AR requested that the matter may be remanded to the Ld. AO as the assessee has sufficient evidence for the cash deposit made during the demonetisation period. The Ld. DR relied upon the order of the Ld. CIT(A) but did not oppose the request of the assessee.

6. We have considered the submissions made, gone through the facts of the case and perused the record and the order of the Ld. CIT(A). We find that at both the stages of assessment order before the Ld. AO as well as before the Ld. CIT(A) in the appeal, proper representation was not made on behalf of the assessee. After considering the facts of the



case, we deem it appropriate in the interest of justice and fair play that another opportunity needs to be provided to the assessee to represent his case properly before the Ld. AO as the assessee claims to have sufficient evidence in support of the relief claimed. We, therefore, set aside the order of the Ld. CIT(A) as well as of the Ld. AO and remit the matter to the Ld. AO to frame the assessment afresh, after affording an opportunity of being heard to the assessee and thereafter pass an order in accordance with law. The assessee shall not seek unnecessary adjournment and shall be at liberty to file all evidence in possession for the relief claimed. For statistical purposes, the appeal of the assessee is partly allowed.

6. In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced in the open Court on 7th October, 2025.

Sd/-

[Madhumita Roy]
Judicial Member

Sd/-

[Rakesh Mishra]
Accountant Member

Dated: 07.10.2025

Bidhan (Sr. P.S.)



Copy of the order forwarded to:

1. **Dinesh Prasad, Nima Bhadeya, Dobhi, Gaya, Bihar, 824201.**
2. **ITO, Ward-3(1), Gaya.**
3. CIT(A)-NFAC, Delhi.
4. CIT-
5. CIT(DR), Patna Bench, Patna.
6. Guard File.

//True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata