

IN THE INCOME TAX APPELLATE TRIBUNAL, RANCHI BENCH, RANCHI

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER AND
SHRI RATNESH NANDAN SAHAY, ACCOUNTANT MEMBER

ITA No. 167/Ran/2023

(Assessment Year: 2017-18)

D.C.I.T., Circle-2, Ranchi.	Vs.	Shri Upendra Prasad, Prop. M/s Bina Cement, Near Block More, Loherdaga-835302 (Jharkhand) PAN No. ALYPP 3084 C
Appellant/ Revenue		Respondent/ Assessee

C.O. No. 01/Ran/2023

(Arising out of ITA No. 167/Ran/2023)

(Assessment Year: 2017-18)

Shri Upendra Prasad, Prop. M/s Bina Cement, Near Block More, Loherdaga-835302 (Jharkhand) PAN No. ALYPP 3084 C	Vs.	D.C.I.T., Circle-2, Ranchi.
Objector/Assessee		Respondent/Revenue

Assessee represented by	Sri P.S. Paul, A.R.
Department represented by	Shri Khubchand T. Pandya, Sr.DR
Date of hearing	07/10/2025
Date of pronouncement	07/10/2025

ORDER

PER: BENCH

1. ITA No. 167/Ran/2023 is an appeal filed by the revenue against the order of the Id. CIT(A), Patna-3, Patna in appeal No. CIT(A), Ranchi/10747/2019-20 dated 23/05/2023 for the A.Y. 2017-18 and the C.O. No. 01/Ran/2023 is the cross objection filed by the assessee in the revenue's appeal in ITA No. 167/Ran/2023.
2. Shri Khubchand T. Pandya, Id. Sr.DR is represented on behalf of the revenue and Shri P.S. Paul, Id A.R. is represented on behalf of the assessee.

3. It was submitted by the Id. Sr. DR that there was a survey on the premises of the assessee on 18/09/2018. In the course of survey, the assessee had disclosed additional income of ₹ 32.00 lacs for the impugned assessment year. It was a submission that it was found that the assessee was constructing a multistoried building being ground plus four under the name and style of Beena Towers. It was a submission that the said building was valued and as per the valuation report by the DVO for the impugned assessment year, the cost of construction was determined at ₹ 1,48,95,586/-. It was the further submission that in the return filed by the assessee, the assessee had originally disclosed only ₹ 1,98,402/- for the impugned assessment year as his investment. It was the submission that subsequently, the assessee had disclosed the amount of ₹ 32.00 lacs as additional investment and had paid the taxes thereon also. It was a submission that the Assessing Officer when computing the difference in the cost of construction adopted the valuation of the DVO at ₹ 1,48,95,586/- and from that reduced the investment originally disclosed by the assessee at ₹ 1,98,402/- and his wife's investment of ₹ 34,14,150/- totaling to ₹ 36.12 lacs. The difference of ₹ 1,12,83,586/- was determined by the Assessing Officer as the difference in the cost of construction and treated as unexplained investment of the assessee. It was a submission that the Id. CIT(A) when adjudicating this issue had granted the assessee the benefit of additional ₹ 32.00 lacs disclosed in the revised return and had given 20% deduction in respect of CPWD rates and 15% rebate for self supervision. The Id. CIT(A) had also considered the balance of the investment at 50% and had restricted the addition to ₹ 5.96 lacs. The Id. Sr. DR drew our attention to page No. 13 of the order of the Id. CIT(A). It was a

submission that the Id. CIT(A) ought not to have given the 20% deduction rebate in respect of CPWD rates and the 15% rebate for self supervision as also 50% towards the investment by the assessee's wife. It was a further submission that in the course of assessment, the Assessing Officer had also made an addition of ₹ 55.54 lacs representing the demonetized currency deposited during the demonetization period. It was a submission that the assessee had shown substantial cash balance in its books when the assessee had a current account. It was a submission that the Id. CIT(A) had deleted the addition by holding that the assessee had disclosed the turnover in the VAT returns and the Assessing Officer had not produced any evidence to prove that the cash sales was not reliable. It was a submission that consequently, the additions as made by the Assessing Officer was deleted by the Id. CIT(A). It was a prayer that the order of the Id. CIT(A) is liable to be reversed.

4. In reply, the Id. Authorised Representative submitted that the investment in the property as per the revised return was ₹ 33,98,402/- and the investment by the wife has been already considered by the Assessing Officer while calculating the difference in the valuation at ₹ 34,14,150/-. It was a further submission that the Id. CIT(A) failed to appreciate that there was a bank loan also of ₹ 25.00 lacs. It was a submission that the assessee, if the bank loan is also considered, there would be no undisclosed investment at all. It was a submission that the order of Id. CIT(A) on this issue is liable to be modified for which he has filed cross objection. It was an alternate prayer that the order of the Id. CIT(A) is liable to be upheld.

5. In regard to the issue of the cash deposit in the bank account during the demonetization period, it was a submission that the deposits were out of the cash book of the assessee and the books of account of the assessee have not been questioned. In reply to a very specific query raised by the Bench as to whether there was any variation in the stock found in the course of survey, it was submitted by the Id. Sr. DR that there is no mention of variation in the stock in the course of survey anywhere in the assessment order.
6. We have considered the rival submissions. Coming to the issue of the investment in the building being Beena Towers, it is noticed that the Id. CIT(A) has considered the fact that the building is not constructed in an area where the CPWD is operating. For this purpose, the Id. CIT(A) has given the deduction of 20%. The Id. CIT(A) has also considered the fact that there was no contractor receipts nor contractor found supervising the construction during the period of survey. For this, the Id. CIT(A) has given 15% deduction towards self supervision. It is also noticed that the Id. CIT(A) has considered the fact that the assessee is a dealer in cement and steel, obviously, the substantial portion of the cost of construction is in the form of cement and steel. This has also weighed with the Id. CIT(A) when he has given deduction of 20% in respect of the CPWD rates and 15% in respect of the self supervision. We find no error in the findings as arrived at by the Id. CIT(A) in so far as these issues are concerned.
7. Coming to the issue of the additional ₹ 25.00 lacs which is being claimed by the assessee representing the bank loan, it must be mentioned here that no evidence has been brought to our attention to prove such claim of the loan of ₹ 25.00 lacs. This being so, we find no error in the order of Id. CIT(A) on the issue

as adjudicated by him. Consequently, findings given by the Id. CIT(A) on this issue stands confirmed.

8. Coming to the issue of the addition representing the cash deposited in the bank account, it is noticed that the Assessing Officer himself in page 7 of the assessment order recognizes that during the demonetization period, the assessee has deposited ₹ 60.54 lacs in SBN in the bank account and it has been claimed to be out of closing cash in hand as on 08/11/2016. The cash deposit being out of the cash in hand, we find no reason to interfere with the order of Id. CIT(A) where he has given relief on this issue. It would also be worthwhile to mention here that the Assessing Officer in page 6 and 7 of his order has also brought out the cash in hand as on 08/11/2016 at ₹ 61,32,081/-. It has also been noticed that there is no evidence of suppression of sales or undisclosed sales found in the course of survey. There is no variation in the stock found in the course of survey. The books of the assessee have not been brought on question, this also supports the findings of the Id. CIT(A) in his action in deleting the addition of the cash deposit in the bank account as made by the Assessing Officer. This being so, the findings of the Id. CIT(A) on both the issues stands confirmed and the appeal of the revenue stands dismissed.
9. Now coming to the cross objection filed by the assessee, as the assessee has not been able to substantiate the grounds as raised by the assessee in his cross objection and also the assessee has withdrawn the ground no. 5 in respect of the reopening of the assessment and has signed to that extent, the cross objection filed by the assessee stands dismissed.

10. In the result, both i.e. the appeal of the revenue and the cross objection of the assessee are dismissed.

Order announced in open court on 07/10/2025.

Sd/-
(RATNESH NANDAN SAHAY)
ACCOUNTANT MEMBER

Sd/-
(GEORGE MATHAN)
JUDICIAL MEMBER

Ranchi, Dated: 07/10/2025

**Ranjan*

Copy to:

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

By order

Sr. Private Secretary, ITAT, Ranchi