

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

[Virtual Court]

Before

**SHRI PRADIP KUMAR CHOUBEY, JUDICIAL MEMBER**

&

**SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**I.T.A. Nos.: 261 & 262/PAT/2025**

**Assessment Year: 2014-15**

Anil Kumar	Vs.	ITO, Ward-1(5), Bettiah
<b>(Appellant)</b>		<b>(Respondent)</b>
<b>PAN: AWMPK9692G</b>		

**Appearances:**

**Assessee represented by** : Manish Rastogi, Adv.

**Department represented by** : Ashwani Kr. Singal, JCIT.

Date of concluding the hearing : 22-September-2025

Date of pronouncing the order : 13-October-2025

**ORDER**

**PER RAKESH MISHRA, ACCOUNTANT MEMBER:**

These appeals filed by the assessee are against the separate orders 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 2014-15 dated 24.11.2022, which have been passed against the assessment order u/s 144/147 and penalty order under section 271(1)(c) of the Act, dated 21.12.2017 and 30.05.2018, respectively. Since the issues in both the appeals are related to the same assessee, both the appeals were heard together and



are being decided vide this common order for the sake of convenience and brevity

1.1. The Registry has informed that both these appeals filed by the assessee are barred by limitation by 817 days. A petition along with an affidavit seeking condonation of delay has been filed by the assessee stating as under:

*“The National Faceless Appeal Centre, Delhi, (NFAC), vide appeal number ITBA/NFAC/S/250/2022-23/1047631519(1), dated 24-11-2022, has dismissed the appeal of the assessee without allowing reasonable opportunity of being heard.*

*The appellate order is deemed to have been served on 24-11-2024, itself on the day of passing of the order as the order was passed online. The limitation for filing the appeal before this Hon'ble bench is 31-01-2023 and the appeal is being filed on 25-04-2025 before the Hon'ble Tribunal, therefore, there is delay of 815 days in filing the appeal.*

*The delay in filing the appeal occurred due to circumstances beyond the control of the assessee. The assessee was falsely implicated in a number of criminal cases, due to which he was subjected to continuous harassment and used to be absconding. Multiple coercive actions were initiated, and several dates before judicial and investigative authorities were faced. As a result, his attention and resources were diverted towards defending himself in the said cases.*

*Due to these developments, the necessary steps for filing the appeal before this Hon'ble Tribunal could not be taken within the prescribed time limit. The delay was neither deliberate nor intentional but was caused due to unavoidable and exceptional circumstances.*

*In view of the foregoing it would gratuitously be appreciated that the circumstances leading to the delay were beyond the assessee's control.*

*It is therefore humbly prayed that your Lordship would be kind enough to condone the delay in filing the appeal and allow the appeal filed by the assessee to be proceeded with.”*

1.2. Considering the petition and the affidavit seeking condonation of delay and the reasons stated therein, we are satisfied that the assessee had a reasonable and sufficient cause and was prevented from filing the

instant appeals within the statutory time limit. We, therefore, condone the delay and admit both the appeals for adjudication.

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

**I. ITA No. 261/PAT/2025:**

*"1. For that the National Faceless Appeal Centre, Delhi, [the NFAC] erred on facts and in law in partly allowing the appeal filed by the assessee, vide order passed under section 250 of the Income Tax Act, 1961, ('the Act'), dated 24-11-2022.*

*2. For that the NFAC erred in confirming the assessment order passed by the Income Tax Officer, Ward 1(5), Bettiah ('the AO), assessing the assessee under section 144/ 147 of the Act, vide order dated 21-12-2017 at an income of Rs 37,43,645/-against the NIL returned Income, breakup of which is as under:*

Sl. No.	Particulars	Amount (Rs.)	Amount (Rs.)
1.	Returned income		NIL
2.	Additions made in the impugned assessment order		
	a. On account of alleged money credited as interest on FDR.	561126	
	b. On account of alleged cash deposit as well as withdrawal.	2447565	
	c. On account of alleged credit deposited in Axis bank account.	734954	3743645
3.	Net assessed income		3743645

*3. For that the learned NFAC has erred in the facts and circumstances of the case in confirming the action of the AO in making addition of Rs. 5,61,126/- , on account of alleged amount credited as interest on FDRs, which is wrong, illegal and unjustified.*

*4. For that the learned NFAC has erred in the facts and circumstances of the case in confirming the action of the AO in making addition of Rs. 24,47,565/- , on account of alleged cash deposits as well as withdrawal in the different bank accounts, which is wrong, Illegal and unjustified.*

*5. For that the learned NFAC has erred in the facts and circumstances of the case in confirming the action of the AO in making addition of Rs 7,34,954/- , on account of alleged credit deposited in Axis bank account, which is wrong, illegal and unjustified.*

*6. For that the learned NFAC has erred passing an ex-party order without allowing proper opportunity of being heard, which is wrong, illegal and unjustified in the facts and circumstances of the case.*



7. For that the whole order passed by the NFAC is bad in facts and law.

*That the assessee craves leave to add, alter, amend, or vary the above grounds of appeal at or before the time of hearing.”*

**II. ITA No. 262/PAT/2025:**

*“1. For that the National Faceless Appeal Centre, Delhi, ("NFAC"), erred on facts and in law in dismissing the appeal filed by the appellant by confirming the assessment order passed by the Income Tax Officer, Ward 1(5), Bettiah, (the A.O.), by levying penalty of Rs 11,56,787/- under section 271(1)(c) of the Income tax Act, 1961, ('the Act') which is wrong, illegal and unjustified.*

*2. For that the learned NFAC has erred in the facts and circumstances of the case in arbitrarily levying penalty of Rs 11,56,787/- under section 271(1)(c) of the Act is wrong illegal and unjustified, which is wrong, illegal and unjustified.*

*3. For that the learned NFAC has erred in the facts and circumstances of the case in initiating the penalty proceeding in routine manner without recording satisfaction in the assessment order, which is wrong, illegal and unjustified.*

*4. For that the learned NFAC has erred in the facts and circumstances of the case in not appreciating the fact that under which limb of the section the penalty is being levied, which is wrong, illegal and unjustified*

*5. That the whole order passed by the NFAC is bad in facts and law.*

*That the appellant craves leave to add, alter, amend, or vary the above grounds of appeal at or before the time of hearing.”*

3. Brief facts of the case are that the assessee is an individual and on the basis of information available with the Department that the assessee had made deposit of ₹99,91,150/- in the savings bank account and an amount of ₹6,18,596/- had been paid/credited under section 194J of the Act, a notice under section 148 of the Act was issued on 14.02.2017. As the assessee had not filed the return of income for A.Y. 2014-15 either under section 139 and did not file the same even in response to the notice under section 148 of the Act, therefore, the order under section 147 read with section 144 of the Act of the Act was passed after making additions of ₹5,61,126/- as interest earned on



FDRs and saving bank accounts, ₹24,47,565/- on account of unexplained cash deposited in the bank accounts after taking composite peak credit and giving set off of opening balance and ₹7,34,954/- on account of unexplained credit deposited in the bank account with the Axis Bank and the total income was assessed at ₹37,43,645/-. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. CIT(A) who, vide the impugned order, confirmed the additions considering the statement of facts and also in the absence of any specific reply filed in respect of the reliefs claimed and the appeal was dismissed as the assessee failed to make any compliance in response to the notices issued for hearing by the Ld. CIT(A). Aggrieved with the order of the Ld. CIT(A), the assessee has filed the appeal before the Tribunal.

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

5. The Ld. AR, at the outset, submitted that the assessee was facing legal issues and was running away as a lot of harassment was being caused by the local authorities and he was absconding as the bail petition was also rejected and as soon as the assessee came to know of the order being passed, he filed the appeal. The compliance before the Ld. AO as well as before the Ld. CIT(A) could not be made because of these reasons. Further it was mentioned that both before the Ld. AO as well as before the Ld. CIT(A), the orders were passed *ex parte* and as per the grounds of appeal, the assessee requested for the matter being remanded to the Ld. AO so that proper submission could be made. The Ld. DR relied upon the order of the Ld. CIT(A) and requested that the



same may be upheld as despite being provided ample opportunities, no compliance was made by 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) as well as of the Ld. AO. Since there was no proper compliance before both the Ld. AO as well as the Ld. CIT(A), in the interest of justice and fair play it was considered that the request of the assessee to set aside the case before the Ld. AO may be allowed so that a proper opportunity of being heard may be provided. Hence, after examining the facts of the case, we deem it appropriate to set aside the order of the Ld. CIT(A) as well as the order of the Ld. AO and remit the matter back to the Ld. AO for making the reassessment *de novo*. Needless to say, the assessee shall be given a reasonable opportunity of being heard to make any further submission it wants to make in support of the relief claimed and deposits in the bank account and shall not seek unnecessary adjournments. Accordingly, the grounds taken by the assessee in his appeal are allowed for statistical purposes.

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

8. As regards the appeal in ITA No. 262/PAT/2025, which is against the penalty under section 271(1)(c) of the Act, since we have remanded the assessment to be done afresh by the Ld. AO, therefore, both the orders of the Ld. CIT(A) as well as the penalty order of the Ld. AO in respect of penalty are also hereby set aside and the penalty proceedings are remanded to the Ld. AO for reconsideration after the fresh assessment is made as the original assessment does not survive. In the result, the appeal filed by the assessee is allowed for statistical purpose.



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

**Order pronounced in the open Court on 13<sup>th</sup> October, 2025.**

*Sd/-*

**[Pradip Kumar Choubey]**

Judicial Member

*Sd/-*

**[Rakesh Mishra]**

Accountant Member

Dated: 13.10.2025

*Bidhan (Sr. P.S.)*



*Copy of the order forwarded to:*

1. **Anil Kumar, S/o- Jamadar Prasad, Dumari, Yogapatti, West Champaran, Bihar, 845452.**
2. **ITO, Ward-1(5), Bettiah.**
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