

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

[Virtual Court]

Before

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

**I.T.A. No.: 55/PAT/2025
Assessment Year: 2017-18**

Deepak Kumar (Appellant)	Vs.	CPC, Bengaluru (Respondent)
PAN: BHPPK8320J		

Appearances:

Assessee represented by : Abhi Sarkar, Adv.

Department represented by : Ashwani Kr. Singal, JCIT.

Date of concluding the hearing : 21-July-2025

Date of pronouncing the order : 13-October-2025

ORDER

PER RAKESH MISHRA, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of the Addl/JCIT(A)- 11, Delhi [hereinafter referred to as Ld. 'Addl/JCIT(A)'] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for AY 2017-18 dated 28.01.2025, which has been passed against the intimation order u/s 143(1) of the Act, dated 19.03.2019.

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

"1. For that the grounds of appeal hereto are without prejudice to each other.

2. For that the appellate order dated 28/01/2025 bearing DIN & Order No: ITBA/APL/S/250/2024-25/1072603430(1) passed under Section 250 of the Income Tax Act, 1961 (hereinafter called the Act) for the Assessment Year 2017-18 by the Ld. First Appellate Authority, viz. the Commissioner of



Income Tax (Appeal) at National Faceless Appeal Centre (NFAC), Delhi, is bad both in law and on facts.

3. For that the order of assessment being Intimation dated 19/03/2019 bearing Communication Reference No. CPC/1718/A3/1846814975 passed under Section 143(1) of the Act for the Assessment Year 2017-18, by the Ld. Assessing Officer at Centralized Processing Centre, Bengaluru, is bad both in law and on facts.

4. For that the order of assessment being Intimation dated 22/04/2022 bearing Document Identification No. CPC/1718/U3/2101088973 passed under Section 143(1) of the Act for the Assessment Year 2017-18, by the ld. Assessing Officer at Centralized Processing Centre, Bengaluru, is bad both in law and on facts.

5. For that the appellant was not given any opportunity, much less sufficient opportunity, to put forth his contentions and place evidences henceforth at the time of assessment proceeding.

6. For that the order of the ld. Commissioner of Income Tax (Appeal) as well as the order of the ld. assessing officer is based on presumption, surmises and conjectures.

7. For that the order of the ld. Commissioner of Income Tax (Appeal) as well as the order of the ld. assessing officer is wholly perverse in as much as the same are contrary to and at variance with the materials available on record.

8. For that the ld. assessing officer has erred in not disclosing the grounds and/or reasons for passing an adverse intimation u/s 143(1) of the Act.

9. For that the ld. Commissioner of Income Tax (Appeal) as well as the Ld. assessing officer has erred in making an addition of Rs.41,57,630 in the returned income.

10. For that the ld. Commissioner of Income Tax (Appeal) has erred in rejecting the correct audit report without giving any reason and relying upon incorrect audit report, notwithstanding the fact that the auditor has accepted his mistakes and correct the inadvertent mistake in the original audit report.

11. For that the order of the ld. Commissioner of Income Tax (Appeal) as well as the order of the ld. assessing officer is far from best judgment assessment as envisaged in the Act.

12. For that the appellant shall place any other point/points at the time of hearing of the appeal.”



3. Brief facts of the case are that the assessee is an individual engaged in the business of sub-contracting under the proprietorship of Shivshakti Construction. The assessee had filed the return of income for the AY 2017-18 showing total income of ₹9,59,160/-. The return was processed by the CPC, Bengaluru, u/s 143(1) of the Act and adjustments were made based on Form No. 3CD uploaded with the return, increasing the total income to ₹51,16,790. A demand of ₹17,18,535 was raised. The assessee later filed a rectification application u/s 154 of the Act contending that the adjustments were made on account of errors in Form No. 3CD filed by the Chartered Accountant. The rectification request was rejected, prompting the assessee to file the appeal before the Ld. CIT(A). The assessee had submitted that a revised Form No. 3CD was filed correcting the earlier mistakes and had sought relief based on the revised audit report. However, the CPC, Bengaluru assessed the total income of the assessee at ₹51,16,790/- and demand of ₹17,18,535/- was also raised. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. CIT(A), who considered the submissions made by the assessee, the accompanying evidence and the legal framework of the Income Tax Act, 1961, the scope and limitations of section 143(1) of the Act, the validity of the revised Form No. 3CD and the scope of rectification u/s 154 of the Act. However, he observed that the CPC acted within the jurisdiction u/s 143(1) and 154 of the Act. The adjustments made were based on the original report on Form No. 3CD which formed part of the record and held that the revised Form No. 3CD filed by the assessee was inadmissible as evidence and dismissed the appeal of the assessee.

4. Aggrieved with the order of the Ld. CIT(A), the assessee has filed the appeal before the Tribunal.



5. Rival contentions were heard and the submissions made have been examined. The Ld. AR submitted that there was an inadvertent mistake in the audit report filed along with the return of income on Form No. 3CD. The error was corrected but the processing u/s 143(1) of the Act was done prior to the correction being made. The rectification application filed in this regard was also rejected. The report on Form No. 3CD was filed on 03.10.2023. The assessee had worked as a contractor and had made foundations for Bajaj and other companies and other electric companies for which the work order was received. The Ld. CIT(A) had dismissed the appeal of the assessee. The Ld. AR requested that the matter may be remanded to the Ld. AO as the disallowance u/s 40(a)(ia) of the Act was not warranted.

6. The Ld. DR, though relied upon the order of the Ld. CIT(A), but had no objection as the merits of the case were not considered. The delayed report on Form No. 3 CD has other implications and so was submitted by the Ld. DR.

7. We have considered the rival submissions. 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 considering the claim of the assessee after giving a reasonable opportunity of being heard to make any further submission it wants to make in support of its grounds of appeal along with the evidence. Accordingly, the grounds taken by the assessee in his appeal are allowed for statistical purposes.



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

Order pronounced in the open Court on 13th October, 2025.

Sd/-

[Sonjoy Sarma]
Judicial Member

Sd/-

[Rakesh Mishra]
Accountant Member

Dated: 13.10.2025

Bidhan (Sr. P.S.)



Copy of the order forwarded to:

1. **Deepak Kumar, M/s. Shivshakti Constructions, Ram Dayalu Nagar, Bhikhanpura Dih, Near Mahrana Pratap Lane-1, Muzaffarpur, Bihar, 842001.**
2. **CPC, Bengaluru.**
3. Addl/JCIT(A)-11, Delhi.
4. CIT-
5. CIT(DR), Patna Bench, Patna.
6. Guard File.

//True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata