

IN THE INCOME TAX APPELLATE TRIBUNAL BENCH-PATNA
VIRTUAL HEARING AT KOLKATA

**Before Ms. Madhumita Roy, Judicial Member
and Shri Rakesh Mishra, Accountant Member**

**ITA No.66/Pat/2025
Assessment Year: 2016-17**

ITO, Ward-3(1), Gaya.....Appellant

vs.

Pawan Kumar Singh.....Respondent

**C/o Vidhayanchal Singh,
Tarhangla, Dehri-On-Sone,
Bihar – 821307.
[PAN: AQSPS7942P]**

Appearances by:

Shri Anuj Ganguli, AR, appeared on behalf of the appellant.

Shri Ashwani Kr. Singal, JCIT, appeared on behalf of the Respondent.

Date of concluding the hearing : October 09, 2025

Date of pronouncing the order : October 09, 2025

ORDER

Per Madhumita Roy, Judicial Member:

The instant appeal filed by the revenue is directed against the order dated 06.01.2025 passed by NFAC u/s 250 of the Income Tax Act, 1961 [hereinafter referred to as the “Act”].

2. The revenue in this appeal is aggrieved by the action of the Ld. CIT(A) in restricting the addition of Rs.2,02,70,371/- made by the Assessing Officer to Rs.16,21,630/- i.e. 8% of Rs.2,02,70,371/- in respect of contractual receipts.

3. Facts in brief are that the assessee filed his return of income for the year under consideration on 19.03.2017 declaring total income at Rs.18,38,560/-. The case was reopened based on information the assessee is connected with one Dinesh Chandra Agrawal Group who was allegedly involved with bogus expenses. Notice was u/s 148 was issued and in response to the notice the assessee filed same return of income

and also notice u/s 142(1) was issued. The Assessing Officer after verifying the details submitted by the assessee and on the basis of information of the Investigation Wing, concluded that the assessee has received sub-contractual receipts of Rs.2,02,70,371/- as accommodation entry and added the same u/s 68 of the Act as unexplained income of the assessee.

4. Aggrieved by the above order, the assessee filed appeal before the ld. CIT(A) wherein the appeal of the assessee was partly allowed by restricting the addition @8% of the total contractual receipts of Rs.2,02,70,371/- which comes to Rs.16,21,630/-.

5. Dissatisfied, the revenue has come in appeal before us by taking the following grounds of appeal:

“1. Whether on the facts and circumstances of the case, the Ld CIT (Appeal), NFAC has erred in restricting the addition to Rs.16,21,630 as against the addition made of Rs. 20270371 despite the fact that he has agreed with the AO that the contractual receipt of Rs. 2,02,70,371 was not disclosed by the assessee in his return.

2. Whether on the facts and circumstances of the case, the Ld CIT (Appeal), NFAC has erred in estimating the income at the rate of 8% of gross contractual receipt by taking the shelter of section 44(A)(D) of the IT Act, 1961, despite the fact that assessee's gross receipt is more than the limit prescribed (Rs. 60 lakh) for F.Y. 2015-16 relevant to A.Y 2016-17 and thus he was required to maintain books of account and section 44 (A)(D) of the Income Tax Act, 1961 is squarely not applicable.”

6. At the time of hearing of the matter, the Ld. DR appearing on behalf of the revenue submitted that the addition cannot be restricted to 8% on estimation basis by invoking section 44AD of the Act. He further said that the addition cannot be restricted on estimation basis @8% of gross contractual receipt by invoking section 44AD of the Act for the reason that the limitation period prescribed by the Government for estimation of addition commencing from A.Y 2016-17 to Rs.60 lakh and

therefore, the entire addition has been made by the Assessing Officer is required to be confirmed.

5. On the other hand, the Id. AR submitted that the Id. CIT(A) has nowhere mentioned the invocation of section 44AD of the Act in his entire order which is evident from the order of the Id. CIT(A) itself and also submitted that he has filed application before the Id. CIT(A) challenging the estimation addition of 8%, however, no such application is on record. He drew our attention to the of the Id. CIT(A) and the relevant portion of the same is reproduced as under:

“5.2 I have considered the matter carefully. The case was re-opened since contractual receipts of Rs. 2,02,70,371/- were not disclosed in the return of income. On the other hand, the assessee has stated that he did not receive such receipts during the year and that there were debit balances against DRA Group as on 01.04.2015.

Having considered the submission, it is seen that the appellant has not shown any sub contract receipts in the return of income. The so called debit balance as on 01.04.2015 in case of Dinesh Chandra Agrawal Infracon is not supported by any documentary proof. On the other hand, the AO's conclusion was based on information received on the basis of evidences gathered in search and seizure operation. Therefore, I am inclined to agree with the AO that contractual receipts of Rs.2,02,70,371/- were not disclosed.

Having concluded as above, it is noted that entire contractual receipts cannot be the income of the appellant and therefore a reasonable income needs to be computed. 8% of contractual receipts would be a reasonable estimate in my opinion. Therefore, the addition is restricted to Rs. 16,21,630/-.

6. In the result, the appeal is partly allowed.”

6. After hearing the Ld. Counsels of the respective parties and perusing the materials available on record, we note particularly from the order of the Id. CIT(A) that though the addition has been restricted to 8% of the contractual receipts but the Id. CIT(A) has nowhere mentioned about the section 44AD of the Act, rather he has simply restricted the said addition @8% which he found reasonable. Furthermore, in the

grounds of appeal, the revenue authorities have wrongly quoted the section 44AD of the Act which we find baseless and unreasonable. We note that the order of the addition has been made by the Id. CIT(A) without mentioning of invocation of the provision of law which is under challenge before us and the same is not found to be maintainable. Hence, the entire addition is deleted.

7. In the result, the appeal of the assessee is allowed.

Kolkata, the 9th October, 2025.

Sd/-
[Rakesh Mishra]
Accountant Member

Sd/-
[Madhumita Roy]
Judicial Member

Dated: 09.10.2025.

RS

Copy of the order forwarded to:

1. Appellant -
2. Respondent -
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches