

IN THE INCOME TAX APPELLATE TRIBUNAL "PATNA BENCH", PATNA
(VIRTUAL HEARING AT KOLKATA)

SHRI SONJOY SARMA, JUDICIAL MEMBER
SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER

I.T.A. No. 391/Pat/2025
(Assessment Year 2015-16)

Manoj Kumar Das,

Nipania Phulwaria, Barauni,
Begusarai, Military Camp Ke Saamne,
Begusarai - 851112
[PAN: BTGPD5511H]

..... **Appellant**

vs.

Assessment Unit,
Income Tax Department

..... **Respondent**

Appearances by:

Assessee represented by : None
Department represented by : Sh. Ashwani Kr. Singal, JCIT

Date of concluding the hearing : 29.10.2025

Date of pronouncing the order : 30.10.2025

ORDER

PER SANJAY AWASTHI, ACCOUNTANT MEMBER

1. In this case, there is a delay of 28 days in the filing of the said appeal. The assessee has requested for condoning the same as under:

"1. That this is an application for condonation of delay in the filing of the instant appeal.

2. That the petitioner states that the impugned order was passed on 19/05/2025 by the Id Commissioner of Income Tax (Appeal) at National Faceless Appeal Centre, Delhi.

3. That the petitioner states that the above appellate order was passed on 19/05/2025 and the order was served through email on 19/05/2025 and the appeal was to be filed within 60 days, ie., on or before 19/07/2025. The appeal is delayed by around 37 days.

4. That the assessee states that the reason for delay is that the assessee is suffering from HIV AIDS and is constantly under treatment. Copy of medical treatment is enclosed.

5. That the petitioner states that the delay in filing the appeal is neither deliberate nor intentional but due to the genuine and bona fide reasons mentioned above.

6. That the petitioner submits that the delay in filing the present appeal is not attributable to the petitioner.

7. That the petitioner states that the delay had happened beyond the control of the petitioner and the same merits to be condoned.

8. That the petitioner submits that there is a strong prima facie case on merits in favour of the appellant, and if the delay is not condoned, the appellant would suffer irreparable loss and injury.

It is, therefore, prayed that this Hon'ble Tribunal may graciously be pleased to consider the submissions as made in the foregoing paragraphs and further be pleased to condone delay, if any, in the filing of the instant appeal.”

1.1 Considering the reasons given in the said petition, the delay is hereby condoned and the appeal is admitted for adjudication.

2. On the last date of hearing, none appeared on behalf of the assessee but it was decided to proceed ahead with the adjudication, with the help of Ld. DR.

2.1 This appeal arises from order u/s 250 of the Income Tax Act, 1961 (hereafter “the Act”), passed by Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, vide order dated 19.05.2025.

2.2 In this case, both the authorities below are seen to have passed exparte orders through which an addition of Rs. 1,16,00,000/- has been made, and subsequently confirmed, on account of sums of money deposited in the bank account which were discovered as such by the Ld. AO.

2.3 Aggrieved with the action of Ld. AO in confirming the addition made by the Ld. AO, the assessee has approached the ITAT with the following grounds:

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

2. For that the order of assessment dated 02.05.2023 Bearing DIN number

ITBA/AST/S/147/2023-24/1052514812(1) passed under Section 147 read with Section 144 of the Income Tax Act, 1961 by the Id. assessing officer at Assessment Unit, Income Tax Department, is bad both in law and on facts.

3. For that the appellant was not given any opportunity, much less sufficient opportunity, to put forth his contentions and place evidences henceforth.

4. For that the order of the Id. assessing officer is based on presumption, surmises and conjectures.

5. For that the order of the id. assessing officer is wholly perverse in as much as the same are contrary to and at variance with the materials available on record.

6. For that the Id. assessing officer has erred in not serving upon the appellant notice under Section 148 of the Act.

7. For that the Id. assessing officer has erred in not serving upon the appellant notice under Section 142(1) of the Act.

8. For that the id. assessing officer has erred in not serving upon the appellant the show cause notice under the Act.

9. For that the Id. assessing officer has erred in holding that the cash deposits aggregating to Rs.1,16,00,000 in ICICI Bank bearing bank account no. 255605500035 is unexplained investment in purchase of property credited from undisclosed sources u/s 68 read with section 115BBE of the Act and assessed the same under the Act.

10. For that the Id. assessing officer has grossly erred in holding the entire cash deposits as undisclosed income, notwithstanding the fact that it was apparent from the bank statement itself that purchases have been made from the impugn bank account.

11. For that the Id. assessing officer has erred in holding that the assessee has made investment in purchase of property from undisclosed sources u/s 68 read with section 115BBE of the Act, notwithstanding the fact that the reassessment proceeding was initiated on the basis of cash deposits made in bank.

12. For that the Id. assessing officer has erred in not disclosing the details of the bank account/s in the impugned assessment order, on the basis of which the additions have been made.

13. For that the Id. assessing officer has erred in not considering the fact that the said cash deposits were in respect of the business transactions of the assessee and that all the sales of the assessee were in cash and cash deposits have been consistently made in the bank in whole year.

14. For that the Id. assessing officer has erred in not considering the fact that purchases have been made through banking mode and were transferred to respective sellers through the impugn bank account.

15. For that the order of the Id assessing officer is far away from best judgment assessment u/s 144 of the Act, for the reason that the Id assessing officer could have resorted to estimation of profit rather than treating the entire cash deposits as undisclosed income.

16. For that the Id. assessing officer has erred in initiating penalty proceeding under Section 271(1)(c) of the Act.

17. For that the Id. assessing officer has erred in not providing the appellant the reason recorded for initiation of reassessment proceeding under Section 147 of the Act and has grossly acted in violation of the directions of the Hon'ble Supreme Court in the case of *GKN Driveshafts (India) Ltd vs ITO* reported in [2002] 125 Taxman 963 (SC) and [2003] 259 ITR 19 (SC).

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

3. Before us, the Ld. DR pointed out that ample opportunities were provided to the assessee for making a presentation of facts but the same were not availed of before either of the authorities below. The Ld. DR stated that in the absence of any justification about the amounts found deposited in the bank accounts, the Ld. AO had no option but to make the impugned addition. However, the Ld. DR mentioned that he would have no objection in case this matter was to be remanded back to the file of Ld.AO for fresh assessment.

3.1 We have carefully considered the averments before us and have heard the Ld. DR. Considering the totality of facts and circumstances of the case, we deem it fit to set aside the impugned order and remand the same back to the file of Ld. AO for fresh assessment. It would be expected that the assessee would be careful regarding the opportunities given to him for presenting the facts and in case the assessee is not forthcoming in this regard then the Ld. AO would be free to take any view as deemed fit, as per the law.

4. In result, this appeal is allowed for statistical purposes.

Order pronounced on 30.10.2025

Sd/-
(Sonjoy Sarma)
Judicial Member

Sd/-
(Sanjay Awasthi)
Accountant Member

Dated: 30.10.2025
AK, Sr. P.S.

Copy of the order forwarded to:

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

//True copy//

By order

Assistant Registrar, Kolkata Benches