

IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH, KOLKATA

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

**I.T.A. No. 1343/Kol/2025
Assessment Year 2015-16**

Chhanda Kar,

C/o Mahadev Ghosh-Advocate,
BF- 199, Salt Lake City,
Sector-I, Kolkata - 700064
[PAN: EAVPK9426B]

..... **Appellant**

vs.

Income Tax Officer,

Ward-27(3), Haldia,

Aayakar Bhawan, 34J +27,
Durgachwak, Haldia - 721602

..... **Respondent**

Appearances by:

Assessee represented by : None

Department represented by : Saumitra Ghosh, JCIT

Date of concluding the hearing : 28.10.2025

Date of pronouncing the order : 30.10.2025

ORDER

PER SANJAY AWASTHI, ACCOUNTANT MEMBER:

1. In this case, there is a delay of 54 days has been reported by the ITAT Registry. The same has been requested to be condoned as under:

"I, CHHANDA KAR, daughter of ASHOK PATRA, age about 38 years, by caste Hindu, by occupation Business, at present residing at Radhaballavpur, Tamluk, Dist: Purba Medinipur- 721636 West Bengal, do hereby solemnly declare and affirm as follows:

1. That I am doing the retailing the SARI and other ladies Garments.

2. That I have been assessed to tax under the jurisdiction of Income Tax Officer, Ward 27(3), Haldia, WB having PAN: EAVPK9426B.

3. That the A.Y. 2015-16 was completed and passed the order u/s. 147 r. w. s 144 read with section 144B of the Income Tax Act, 1961 on 17/09/2021

4. That I had been filed an appeal before the Ld. Commissioner of Income Tax (Appeals), NFAC through e-filing.

5. That the Ld. Commissioner of Income Tax, (Appeals). National Face Less Appeal Centre (NFAC) passed an order, vide DIN & Order No. ITBA/NFAC/S/250/2024-25/1072837156(1) dated 03/02/2025.

6. That the said order was received through e-portal on 03/02/2025.

7. That after received the appeal order u/s. 250 of the Act I, Handed over all the documents such as Appeal order And other documents to erstwhile Advocate for filling the appeal before the Honb'le Income Tax Appellate Tribunal, Kolkata

8. That my erstwhile Advocate irresponsible attitude, he Could not filed the appeal in time.

9. That, my erstwhile Advocate who appeared before the CIT (A), NFAC was unable/competent to file the appeal before the Honb'le Income Tax Appellate Tribunal, Kolkata.

10. That after searching a lawyer at Kolkata, I handed over all the documents for filling the appeal before the Honb'le Income Tax Appellate Tribunal, Kolkata.

11. That the appeal has to be filled on or before 3rd. April 2025 before the Honb'le Income Tax Appellate Tribunal, Kolkata u/s 253(3) of the I. T. Act, 1961.

12. That the delay of filling an appeal 83 days against ITBA/NFAC/S/250/2024-DIN & appeal No: 25/1072837156 (1) dated 03/02/2025.

13. That the delay for filling of appeal before your honour is due to beyond my control. It is needless to mention here that the assessee entirely depends on his lawyer regarding the Income Tax matter.

14. That my humble submissions in the present situation, before the Honb'le Bench, kindly consider my prayer and Condon the delay of 83 days for filling the Appeal before the Honb'le I.T.A.T, Kolkata.

That the above-mentioned para wise statements/declarations are true to the best of my knowledge and belief.”

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

2. On the last date of hearing, the appeal was called out and none appeared on behalf of the assessee. However, 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”) dated 03.02.2025, passed by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereafter “the Ld. CIT(A)”].

2.2 In this case, the Ld. AO has passed an ex parte order and made an addition of Rs. 13,51,712/- u/s 69 of the Act. The assessee carried this matter in appeal where also due to lack of persuasion before the Ld. CIT(A), the addition was duly confirmed. In this regard, para 4 art page 2 of the impugned order is relevant since it indicates that 3 notices issue by the office of Ld. CIT(A) were not responded to.

2.3 The assessee has filed the present appeal before with the following grounds:

“1. That the Income Tax Officer, Ward - 27(3), Haldia without issuing the notice u/s. 143(2) of the Income Tax Act, 1961, issued the notice u/s. 142(1) of the I. T. Act, 1961, dated: 10/03/2021 and asking the documents in support of Return of Income. Thus, without issuing the notice u/s. 143(2) of the I. T. Act, 1961, the Assessment Order was illegal, bad-in-law, and void-ab-initio and liable to be quashed.

“2. That the Assessment Order was passed by the National Faceless Assessment Centre, Delhi without issuing the notice u/s. 148 of the Act. Without issuing the notice u/s. 148 of the Act, 1961, the National Faceless Assessment Centre, Delhi cannot hold the proper jurisdiction to pass the assessment order.

3. For that Ld. CIT (A), National Faceless Appeal Centre erred in confirming the order of the AO, National Faceless Assessment Centre when the notice u/s 148 dated 20/03/2020 is bad in law since the reasons recorded along with copy of approval prior to the issue of the notice were not forwarded to the assessee and there was nothing on record to show that the requirements for reopening were fulfilled.

4. For that the Ld. CIT (A), National Faceless Appeal Centre erred in confirming the order of the AO when the reopening is otherwise bad in law since the approval obtained from specified authorities was not in accordance with law and the copy of the approval was never sent/serve to the assessee.

5 For that the Ld. CIT (A), National Faceless Appeal Centre erred in confirming the order of the AO when the reassessment is bad in law since no statutory notice u/s. 143(2) was issued.

5(i) When the Income Tax Officer, Ward 27(3), Haldia duly issued the notice u/s.

142(1), dated 10/03/2021 vide DIN & Notice No. ITBA/AST/F/142(1)/2020-21/1031398324(1) and asking the documents in support of Return of Income filed by the assessee on 20/03/2017. Thus the Income Tax Officer accepted the sufficient compliance under the law against the notice 148 of the Act.

5(ii) That the Assessing Officer, National Faceless Assessment Centre issued a show cause notice u/s. 144 of the Act dated 04/09/2021. In reply to that notice, the assessee submitted on 07/09/2021 that "The Income shown by me A. Y. 2015-16 is actual, there was no changes. On that year return submitted by me in the form of ITR 4S". The reply submitted by the assessee was sufficient compliance against the notice u/s. 148 of the Act issued by the I.T.O, Ward - 27(3), Haldia.

6 That the Jurisdictional Assessing Officer (JAO) is not permitted to issue a notice u/s 148 of the Income Tax Act, as it would violate the provisions of Section 151A, which mandates faceless assessment.

6(1) That the faceless assessment regime u/s 151A excludes the JAO's jurisdiction to issue notices u/s 148.

7. That there is no concurrent jurisdiction between the JAO and the Faceless Assessment Officer (FAO) for issuing notices u/s 148 or passing assessment/reassessment orders. When specific jurisdiction is assigned to either the JAO or the FAO under the Faceless Assessment Scheme.

8. That the Assessment order year under consideration was passed by the National Faceless Assessment Centre without mentioning the designation of the Assessing Officer, who passed the assessment order.

It is mentioned in the assessment order "Additional/Joint Commissioner of Income Tax/income Tax Officer, National Faceless Assessment Centre". There is no provision in the Income Tax Act; 1961 to pass one assessment order by all such designated officer jointly. Hence this is irregular and the order in question is invalid, bad- in law, and liable to be quashed.

That the appellant craves leave to amend, add alter and/or withdraw any ground or grounds of appeal at the time of hearing and/or before disposal of appeal."

3. The Ld. DR supported the orders of authorities below and stated that the assessee was given ample opportunity to present his/her case but since no compliance was made therefore neither of the authorities below had any other opportunity to examine the case on facts.

4. We have carefully considered the submissions of the Ld. DR and have gone through the case records before us. We find that the assessee has not been very careful in pursuing the tax matter before the authorities below.

However, in the interests of substantive justice, we deem it fit to give the assessee another chance to present the facts and hence we set aside the impugned order and remand this case to the file of Ld. AO for fresh assessment, after giving an opportunity of being heard to the assessee.

5. In result, appeal of the assessee 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. Appellant
2. Respondent
3. Pr. CIT
4. CIT(A)
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches