

**IN THE INCOME TAX APPELLATE TRIBUNAL
PATNA 'DB' BENCH, KOLKATA**

Before

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

**I.T.A. No.: 288/PAT/2025
Assessment Year: 2017-18**

Bhola Prasad Yadav	Vs.	Income Tax Officer, Ward-4(1), Patna
(Appellant)		(Respondent)
PAN: AANPY4295L		

Appearances:

Assessee represented by : Anup Kumar, Adv.

Department represented by : Smt. Rinku Singh, CIT(DR)
on behalf of Sr. DR.

Date of concluding the hearing : 19-August-2025

Date of pronouncing the order : 12-November-2025

ORDER

PER RAKESH MISHRA, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order 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 2017-18 dated 27.05.2025.

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

"1. For that the National Faceless Appeal Centre ('NFAC') erred on facts and in law in dismissing the appeal filed by the appellant, vide order passed under section 250 of the Income Tax Act, 1961, ('the Act'), dated 27-05-2025.

2. For that the NFAC erred in confirming the assessment order passed by the National Faceless Assessment Centre, Delhi, ('the AO'), assessing the appellant under section 147 read with section 144 read with section 144B



of the Act, vide order dated 10-03-2022 at an income of Rs 58,57,654/- against the returned income of Rs 8,80,250/-, by making additions as detailed under:

(the details are mentioned in the form of a chart)

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 43,46,500/- on account of alleged cash deposit made in IDBI Bank account No. 1193651100000231 during the demonetization period, 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 by estimating the profit @ 8% of the undisclosed turnover and made addition of Rs 6,70,904/-, which is wrong, illegal and unjustified.

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

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

3. Brief facts of the case are that the assessee is an individual engaged in the trade of building materials, mostly Cement, under the trade name of M/s Bhola Building Materials. As per information available with the Department, the assessee made transactions amounting to ₹1,27,32,793/- including cash deposits of ₹43,46,500/- at IDBI Bank during the demonetization period. The case of the assessee was taken up for scrutiny assessment u/s 147 of the Act. A notice u/s 148 of the Act was issued to the assessee but the assessee did not file his return of income in response to the notice. Further, another notice u/s 142(1) of the Act along with a questionnaire was issued to the assessee, in response to which the assessee submitted copy of computation of income, profit & loss account, balance sheet and proprietor's capital account for AY 2017-18 and the bank statements for the period under consideration with IDBI bank, except the details for the account in which cash deposits were made during the period



under consideration. However, the assessee failed to furnish the source of cash deposits, to produce the cash book and also failed to file the ITR in response to the notice issued under section 148 of the Act. Since the assessee failed to furnish any explanation for the source of cash deposits made during the demonetization period, the Assessing Officer (hereinafter referred to as Ld. 'AO') treated the total cash deposits during the period of demonetization as unexplained money u/s 69A r.w.s. 115BBE of the Act and added the same to the income of the assessee. Further, as the assessee had disclosed business income, the balance amount of ₹8,38,62,93/- deposited in the bank account was considered as undisclosed turnover and profit was calculated by applying the rate of 8% on the turnover thus determined and the undisclosed income of the assessee was computed at ₹6,70,904/-. The Ld. AO assessed the total income of the assessee at ₹58,57,654/- u/s 147 r.w.s. 144 r.w.s. 144B of the Act. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. CIT(A), who dismissed the appeal of the assessee by giving his findings as under:

“6. Decision: I have considered the facts of the case, written submission and case laws relied upon by the appellant as against the observations and findings of the AO in the assessment order. The submissions and contentions of the appellant are discussed and decided as under:

6.1 Ground No.1: In this ground the appellant has challenged the addition worth Rs.4346500/- u/s. 69A of the Income Tax Act and Rs.670904/- on account of 8% on the turnover of the appellant. The appellant has deposited cash worth Rs.4346500/- in the bank account. The evidences of the source of the cash were not filed before the AO, hence AO made the addition of Rs.4346500/- u/s. 69A of the Income Tax Act. Since the appellant has not filed Return of Income in response to notice u/s.148 of the Income Tax Act and hence AO made the addition of Rs.670904/- on account of 8% on the turnover of the appellant.

6.1.1 Now before me in the appellate proceedings, the appellant has filed written submission. The appellant has stated that it is engaged in the



trading of Cement & Iron. The appellant has stated that its account is audited u/s.44AB of the Income Tax Act. the appellant has stated that all the cash deposits are out of cash sales. I have gone through the submission. The appellant has not filed books of accounts, the details of purchases and sale and the vouchers of various expenses before me in the appellate proceedings. No effort has been made by the appellant to relate the bank deposits with the cash sales. No evidences have been filed before me to explain the source of the cash deposits. Hence, the addition of the AO is confirmed and appeal of the appellant is dismissed.

7. The appeal of the appellant is Dismissed.”

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 the issue related to cash deposits and the deposits in the bank account of the assessee which were treated as unexplained money and business income. The assessment order was *ex parte* and the Ld. AR requested that the issue may be remanded to the Ld. AO. The Ld. DR relied upon the order of the appellate authority and requested that the same may be confirmed.

6. We have considered the submissions made. 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 its grounds of appeal 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 partly allowed for statistical purposes.

Order pronounced in the open Court on 12th November, 2025.

Sd/-

[Sonjoy Sarma]
Judicial Member

Sd/-

[Rakesh Mishra]
Accountant Member

Dated: 12.11.2025

Bidhan (Sr. P.S.)



Copy of the order forwarded to:

1. **Bhola Prasad Yadav, Prop of Bhola Building Materials, Ashok Nagar, Kankarbagh, Patna, Bihar, 800020.**
2. **Income Tax Officer, Ward-4(1), Patna.**
3. CIT(A)-NFAC, Delhi.
4. CIT-
5. CIT(DR), Patna Benches, Patna.
6. Guard File.

// True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata