

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

Before

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

**ITA No. 269/Pat/2024
Assessment Year: 2017-18**

Sanjay Kumar Shukla, FF1, Lav Kush Tower, Exhibition Road, Patna, Bihar - 800001 (PAN: BAMPS1679G)	Vs	DCIT/ACIT, Circle-6, Patna
(Appellant)		(Respondent)

Present for:

Appellant by : Shri Vipin Kumar, Adv.
Respondent by : Shri Ashwani Kr. Singal, JCIT

Date of Hearing : 16.10.2025
Date of Pronouncement : 14.11.2025

ORDER

PER RAKESH MISHRA, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi (hereinafter referred to as "the Ld. CIT(A)") passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as "the Act") for the AY 2017-18, dated 04.01.2025, which has been passed against the assessment order u/s 144 of the Act, dated 21.12.2019.

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



“1. For that appellant is engage in the business of retail outlet of petroleum products and acceptance of specified bank notes (SBN) were allowed during demonetisation period. Hence they deposit in SBI Current Account of petrol pump having no 34825067546 SBN and New Currency from cash receipt in the course of retail sales of petroleum products of Rs. 20021700.00. His turnover from petrol pump was Rs. 133153171/- in F/Y 2016-17, on an average it comes to Rs. 1.11 Crore per month and demonetisation period was for two month period starting from 08-11-2016 to 31-12-2016. So collection of Rs. 2.00 Crore during demonetisation period is very normal collection of our petrol pump. It is crystal clear that in the assessment order his sale proceeding of petrol pump wrongly treated as unexplained cash deposit and is injustice with my client.

2. For that due to some error in ITR cash deposit in A/C no 30360574765 not mentioned but after perusal of Financial Statement of Business (M/s Ambey Trader another firm of appellant) of appellant it is clear that this account is properly disclosed and transactions related to aforementioned SBI A/c properly account for. Data available with respect to Cash Transaction 2016 mentioned compliance section of E-filing Portal of my client also about Rs. 2.00 crore cash deposit in his petrol pump account. This is also a reason behind not to mention about cash deposit in aforementioned SBI A/c in ITR. Hence business deposit of Rs. 22.27 Lac wrongly treated as Unexplained Cash Deposit and taxed U/s 69A of the Income Tax Act, 1961.

3. For that from perusal of records it appears that notice under section 142(1) of the IT Act was issued which was never served to the appellant nor it has come to his knowledge.

4. For that assessing authority has passed the Assessment order on 21.12.2019 which is nothing but an ex-parte order wherein authority has held entire cash deposit of 2,22,49,200/- deposited during demonetization period as unexplained money under section 69A of IT Act and added to total income of the appellant and taxed under section 115 BBE of the Act at rate of 60%.

5. For that since the appellant has maintained the books of account of M/s Balaji Automobiles and M/s Ambey Traders which was before the authority therefore it is no a case that same is not recorded in the books of account but same has not been considered.

6. For that from perusal of the order it appears that it has been recorded that only part of the details/information has been submitted but it has been hold that no intimation regarding furnishing of requisite details to the Ld. A.O. has been uploaded.

7. For that appellant crave leave to this Hon'ble Tribunal to submit entire books of account in hard copy for end of justice.

8. For that addition of income as unexplained money (under Section 69A) Rs. 2,22,49,200/- and tax imposed on it at the rate of 60% (under Section 115BBE)



Rs. 1,33,49,520/-. Thereafter, surcharge on tax Rs. 33,37,380/- added on that amount

9. For that interest on tax under Section 234A, 234B and 234C added of Rs. 61,35,175/- so that total tax payable become Rs. 2,32,74,770/-. In other words, sale proceeding of the appellant deposited in Bank wrongly been treated as unexplained money and tax on that 105% of the said unexplained money.

10. For that some other good grounds will be argued at the time of hearing of the present appeal.

11. For that on the aforementioned ground on the behalf of my client I urge to set aside the relevant assessment order for A/Y 2017-18.”

3. Brief facts of the case are that the assessee is an individual and had filed the return of income showing total income of ₹17,11,630/- under the head “profits and gains from business or profession”. The case was selected for scrutiny under Computer Assisted Scrutiny Selection (CASS) to verify the cash deposit during demonetisation period. Statutory notices were issued and a show cause notice was issued relating to the deposits in the 2 bank accounts held in State Bank of India. The assessee did not submit any reply; therefore, the assessment was made under section 144 of the Act. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. CIT(A), who, vide the impugned order, dismissed the appeal as the assessee failed to respond to the notices issued for furnishing the required details which were not furnish during the course of the remand proceedings before the Ld. AO.

4. Rival submissions were considered and the details filed have been examined.

5. It was submitted by the Ld. AR that the case was picked up for scrutiny as there was cash deposit during the demonetisation period.



The assessment has been made *ex parte*. Before the Ld. CIT(Appeals), the documents were filed, but the documents were not considered and the appeal was dismissed in default. Even the sales tax returns were filed. In the written submission filed, it is stated that the turnover from petrol pump was ₹ 13,21,53,171 /- which works out to around ₹ 1.11 Crore per month. The demonetisation period was for 2 months starting from 08/11/2016 to 31/12/2016 and the collection of ₹ 2,00,00,000 /- was very normal collection of the petrol pump during this period. Due to some error in the return of income, the cash deposited in the account number 30360574765 with the State Bank of India was not mentioned, but the perusal of the financial statement of the business of M/s. Ambey Traders and which was another firm of the appellant, shows that the account was properly disclosed and the transactions relating to the aforementioned SBI account were properly accounted for. The treatment of cash deposit during the demonstration as unexplained cash was incorrect. Further, the notice issued under section 142(1) of the Act was never served upon the appellant nor has it come to his knowledge. The assessment order is *ex parte* in which the entire cash deposit of ₹ 2,22,49,200/- deposited during the demonetisation period has been treated as unexplained money under section 69A of the Act and has been added to the total income of the assessee and subjected to tax under section 115BBE of the Act at the rate of 60%. It was submitted that the assessee had filed the details, but the same were not considered. Our attention was drawn to Paras 4 and 5.2 of the order of the Ld. CIT(A) and it was stated that the sales tax return, the books of account and the audit report were produced before the Ld. CIT(A) but it is mentioned on page 6 Para 3 of the appeal order that only part of the



details were furnished. Our attention was also drawn to page 2 Para 5 of the assessment order. The Ld. DR stated that the AO had specifically pointed out nondisclosure of the details during the remand report but he had no objection if the matter were remanded to the Ld. AO.

6. We have considered the facts of the case, the submissions made and the documents filed. The assessee was running a petrol pump In the Name of Balaji Automobiles and was also running a business in the name of Ambey Traders which was a printing material trading firm. The assessee had produced the sales tax return of Balaji Automobiles, the bank statement of SBI account number 34825067546 and Audited Financial Statement of Balaji Automobile to justify the source of cash deposit made in the SBI account. The remand report was also called for in which the AO stated that Rule 46(1) was not applicable and the additional evidences submitted by the assessee should not be accepted. Another opportunity was provided to the assessee to furnish the balance documents by the Ld. CIT(A) but the same were not furnished and the appeal was dismissed without discussing the merits of the case. The Ld. AR submitted that both the assessment order as well as the appeal order were *ex parte* and requested that the matter may be remanded to the Ld. AO as the assessee has sufficient evidence in support of the claim that the cash deposits were made out of the sale proceeds of the business. Since there was no proper compliance before both the Ld. AO as well as the Ld. CIT(A), in the interest of justice and fair play it was considered by the Bench 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 assessment 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 the relief claimed and shall not seek unnecessary adjournments. Accordingly, the grounds taken by the assessee in his appeal are partly 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 14th November, 2025.

Sd/-

[Sonjoy Sarma]
Judicial Member

Sd/-

[Rakesh Mishra]
Accountant Member

Dated: 14.11.2025



Copy of the order forwarded to:

1. **Sanjay Kumar Shukla, FF1 LAV KUSH TOWER, EXHIBITION ROAD, PATNA, Patna, Bihar, 800001.**
2. **ITO, Ward-6(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