

IN THE INCOME TAX APPELLATE TRIBUNAL "PATNA" BENCH, PATNA

**BEFORE SHRI DUVVURU RL REDDY, VP
AND
SHRI RAJESH KUMAR, AM**

**ITA No.264/PAT/2023
(Assessment Year:2019-20)**

ACIT, Central Circle-3, Patna
6th Floor, Room No.602
Central Revenue Building
(Annexe), Beer Chand Patel
Marg, Patna, Bihar-800001

(Appellant)

Vs.

Radha Mohan Roy,
Mohan Nivas At Chopra Bazar,
Ramnagar, Farshi Banmanki,
Purnea, Bihari-854102

(Respondent)

PAN No. BUZPR3181H

**CO No. 03/PAT/2025
(Arising in ITA No. 264/PAT/2025 for A.Y. 2019-20)**

Radha Mohan Roy,
Mohan Nivas At Chopra Bazar,
Ramnagar, Farshi Banmanki,
Purnea, Bihari-854102

(Applicant)

Vs.

ACIT, Central Circle-3, Patna
6th Floor, Room No.602
Central Revenue Building
(Annexe), Beer Chand Patel
Marg, Patna, Bihar-800001

(Respondent)

Assessee by : S/Shri A.K. Rastogi,
Rakesh Kumar, ARs
Revenue by : Shri Md. AH Chowdhary, DR

Date of hearing: 26.11.2025
Date of pronouncement: 28.11.2025

ORDER

Per Rajesh Kumar, AM:

The appeal of the Revenue and the CO of the assessee are arising against the order of the Commissioner of Income-tax (Appeals)-Patna-3, (hereinafter referred to as the "Ld. CIT (A)") dated 22.04.2022 for the AY 2019-20.

2. The Revenue has challenged the deletion of additions by CIT(A) and while the assessee by way of cross objection challenged the jurisdiction of the AO to make addition u/s 153A in case of an unabated assessment.
3. The issue raised in ground no.1 to 3 is against the deletion of addition of ₹1,15,89,409/-, ₹21,16,645/- and ₹1,80,000/- by the learned CIT (A) as made by the learned Assessing Officer in respect of power & fuel and handling labour charges, business promotion expenses and godown rent.
4. The learned AO made the disallowance at the rate of 20% in respect of power fuel and handling charges. Similarly, the learned AO added ₹21,16,645/- in respect of business promotion expenses on the ground of no supporting evidences u/s 69C of the Act. Similarly, ₹1,80,000/- was added on account of godown rent, when the assessee admitted that he was not paying any such rent.
5. In the appellate proceedings, the learned CIT (A) deleted the additions on the ground that books were not rejected by the learned AO and therefore, the disallowances were not sustainable in the eyes of law.
6. After hearing the rival contentions and perusing the materials available on record, we find that undisputedly, the instant assessment year is an unabated assessment on the date of search as there was no pending proceedings against the assessee u/s 143(3) of the Act and the time limit for issuing notice u/s 143(2) of the Act had also expired. The police authorities of SST Purnea, intercepted Shri Manoj Kumar and recovered ₹40.00 lacs from his possession, during routine vehicle

checking, during Bihar legislative assembly election and same was taken into custody on 08.10.2020. On receipt of information, Commission u/s 131(1)(d) was issued by the investigation Wing to QRT Purnea for enquiry. The enquiry was conducted by them and consequently the intercepted cash of ₹40 lacs was requisition u/s 132A of the Act on 20.10.2020 by the Department and deposited in the PDA account of PDA. Investigation Wing, Patna. The assessee accepted the ownership for the cash. Based on the said information search and seizure action u/s 132A and 133A of the Act were conducted in various premises including the residential premises of Manoj Kumar Group. The notice u/s 153A of the Act was issued on 28.11.2021, and assessee did not make any compliance. The assessee filed the return of income on 21.03.2022, declaring total income of ₹47,06,990/-. We note that during the course of search no incriminating material was seized qua any of the disallowances made by the learned AO during the assessment proceedings and it is only on examination of books of accounts and records furnished by the assessee. In our opinion, the action of the learned AO is not sustainable in the eyes of law as the same is against the provisions of Section 153A of the Act which provides that in case of unabated assessment year, the addition can only be made on the basis of seized incriminating material and not otherwise as has been held by the Hon'ble Supreme Court in case of PCIT v. Abhisar Buildwell P. Ltd. (2023)454 ITR 212(SC). Therefore, we do not find any infirmity in the order of the learned CIT (A) and accordingly, uphold the same by dismissing the appeal of the Revenue. Though the Id CIT(A) allowed



the appeal of the assessee on the ground that books were not rejected.

7. In the result, the appeal of the Revenue is dismissed and CO of the assessee is allowed.

Order pronounced in the open court on 28.11.2025.

Sd/-
(DUVVURU RL REDDY)
(VICE PRESIDENT)

Sd/-
(RAJESH KUMAR)
(ACCOUNTANT MEMBER)

Patna, Dated: 28.11.2025

Sudip Sarkar, Sr.PS

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent
3. CIT
4. DR, ITAT,
5. Guard file.

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Patna