

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

[Virtual Court]

Before

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

**ITA No.: 349/PAT/2025  
Assessment Year: 2015-16**

Bindeshwari Lal Mahto <b>(Appellant)</b>	Vs.	NFAC, Delhi <b>(Respondent)</b>
<b>PAN: AIGPM3389N</b>		

**Appearances:**

**Assessee represented by** : None.

**Department represented by** : Ashwani Kr. Singal, JCIT.

Date of concluding the hearing : 16-October-2025

Date of pronouncing the order : 09-December-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 2015-16 dated 30.05.2025.

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

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

*2. For that the learned assessing officer has erred in initiating reassessment proceedings under section 148 of the Act merely on the ground that an income has escaped assessment within the meaning of Section 147 of the Act.*

*3. For that the learned assessing officer has erred in passing an ex-parte order of assessment under section 147 read with Section 144 and 144B of the Act.*



4. For that the learned assessing officer has erred in adding assessee sum of 70,78,000 as unexplained income under section 69A of the Act merely on the ground that the notices issued were not complied with.

5. For that the learned Commissioner of Income Tax (Appeal) has erred in dismissing the appeal in limine merely on the ground that the appeal was filed belated that the explanation as regards delay were not acceptable not properly taking notice the explanation for such delay stated in application for condonation of delay as well as in the statement of facts about updating of mail id updated on 21.05.2024 and also erred in not decided the appeal on merit.

6. For that in view of the matter the order passed by the learned assessing officer and also the learned Commissioner of the Income Tax (Appeal) is bad in law and is fit to be set aside with the observation that proceeds of sale of goods may be taxed u/s. 44AD of the Act on profit estimating the turnover @ 8%.

7. For that, the appellant craves, leave to add, modify and amend any of the grounds of the appeal at the time of hearing.”

3. None appeared on behalf of the assessee; therefore, the case was heard with the assistance of the Ld. DR. Brief facts of the case are that the assessee is an individual and a non-filer. The Assessing Officer (hereinafter referred to as 'the Ld. AO') noted that the assessee had made cash deposits amounting to ₹70,78,000/- during the year under consideration. A show cause notice was issued to the assessee requiring the assessee to furnish his reply/explanation and supporting documents in respect of the cash deposits, but the assessee remained non-compliant to the notices issued. The Ld. AO, therefore, added the bank deposits to the total income of the assessee as unexplained money u/s 69A of the Act and assessed the total income of the assessee at ₹70,78,000/- 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 on the ground of delay in filing the appeal without going into to merits of the case.



4. Aggrieved with the order of the Ld. CIT(A), the assessee has filed the appeal before the Tribunal.

5. None appeared on behalf of the assessee and the case was heard with the assistance of the Ld. DR.

6. We have considered the submission made by the Ld. DR. The assessment order was made *ex parte* and the appeal of the assessee was dismissed on account of delay without considering the merits of the case. The assessee has pleaded lack of education and ignorance of the e-proceeding procedural law as one of the primary causes of delay before the Ld. CIT(A) who did not find merit in the submission and dismissed the appeal. The Bench was of the view that the appeal of the assessee ought to have been considered and decided on merit instead of dismissing the same on account of delay as there was sufficient cause for the delay and the delay ought to have been condoned. Even the assessment order has been made u/s 144 of the Act as the opportunities provided could not be availed by the assessee. Therefore, in the interest of justice and fair play, the order of the Ld. CIT(A) is hereby set aside and the issue is remanded to the Ld. AO to make the assessment order *de novo* after providing an opportunity of being heard to the assessee. Accordingly, all the grounds taken by the assessee in the 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 9<sup>th</sup> December, 2025.**

Sd/-

**[Sonjoy Sarma]**  
Judicial Member

Sd/-

**[Rakesh Mishra]**  
Accountant Member

Dated: 09.12.2025

*Bidhan (Sr. P.S.)*



*Copy of the order forwarded to:*

1. **Bindeshwari Lal Mahto, Nayatola, Ward-32, Katihar, Bihar, 854105.**
2. **NFAC, Delhi.**
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