

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

[Virtual Court]

Before

**SHRI GEORGE MATHAN, JUDICIAL MEMBER  
&  
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**I.T.A. No.: 465/PAT/2024  
Assessment Year: 2015-16**

Gopaljee Prasad <b>(Appellant)</b>	Vs.	DC/AC Cir-3, Darbhanga <b>(Respondent)</b>
<b>PAN: AEPPP9551E</b>		

**Appearances:**

**Assessee represented by** : Naman Nayak, Adv.

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

Date of concluding the hearing : 09-September-2025

Date of pronouncing the order : 08-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 10.05.2024, which has been passed against the assessment order u/s 143(3) of the Act, dated 29.12.2017.

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

*"1. For that the learned CIT(A) has erred in upholding the order of Assessing officer passed u/s 143(3) of the I.T. Act, 1961 wherein the income has been determined at Rs. 1,07,18,760/- as against correct income of Rs. 74,41,260/-.*



2. For that the learned CIT(A) has erred in law and fact in confirming the addition of Rs. 32,77,500/- again which had already been declared by the appellant as income under the head Income from Other Sources in its Return of Income.

3. For that the learned CIT(A) has failed to appreciate that in the line of business of assessee old ornaments are purchased on eye estimation only and after getting its purity it results into short or excess stock. So, a physical verification of stock was carried out by the management well before survey and stock difference of Rs. 32,77,500/- was noticed for which entry in the books of accounts of Assessee was passed by debiting purchase account resulting into increase of Closing stock and crediting Capital Account and this amount has been offered for taxation under the head 'Income from other sources'.

4. For that the Assessing officer and also Ld. CIT(A) has erred in stating that the assessee has brought the undisclosed stock to the tune of Rs. 32,77,500/- into books by debiting closing stock and crediting Capital Account.

5. For that the Assessing officer and the Ld. CIT(A) has erred in stating that there is no justification for crediting purchase account with the amount of Rs.32,77,500/- when in fact Purchase Account has been debited which is verifiable from the Audited Trading and Profit & Loss Account. As mentioned in Assessment order incorrect entry involving purchase account is not correct at all and entry passed is correct in all respect.

6. For that the Assessing officer and the Ld. CIT(A) has not mentioned anywhere that entry passed by the assessee has resulted into escapement of income twice the amount of Rs.32,77,500/-, whereas in the Capital Account also credit is for Rs.32,77,500/- only besides normal business income of Rs.41,89,632/-.

7. For that the Assessing officer and Ld. CIT(A) has failed to appreciate that the assessee furnished separate Trading and Profit and Loss Account without taking stock difference of Rs.32,77,500/- in which Gross Profit and Net Profit remain the same at Rs.48,66,338/- and Rs.41,89,632/- respectively.

8. For that confirming addition of Rs.32,77,500/- is arbitrary unrealistic and has no leg to stand in law and therefore fit to be deleted.

9. For that the Appellant craves leave to add, alter, modify, vary, delete any grounds of appeal before or at the time of hearing, if necessary.”



3. Brief facts of the case are that the assessee is an individual and the proprietor of M/s. Swarnalaya Jewellers and had filed his income tax return showing total income of ₹74,41,260/-. The case was selected for complete scrutiny under the manual category and notices u/s 143(2) and 142(1) of the Act were issued, in response to which the assessee submitted various documents called for. On 26.02.2015, the Income Tax Department conducted a survey u/s 133A of the Act at the business premises of the assessee and found that regular books of account were not found at the time of survey, the stock was inventoried as gold jewellery, silver, diamond and cash worth ₹36,655/- and also bandhak (pawn broking) business records were noted, along with cash memos evidencing considerable out-of-books sales; silver sales totalled to ₹4,07,466 and gold ₹19,83,828. The assessee submitted various documents, including Tax audit report, profit and loss accounts, stock statements, trial balances, capital accounts, ITR acknowledgement, NSC/LIC receipts, computation of income, and bank statements. The Assessing Officer (hereinafter referred to as the Ld. 'AO') examined the trading accounts with and without the re-appraisal of stock and found discrepancies, specifically that the gross profit ratio (GP) was unnaturally high in the year of stock disclosure. The balance sheet and capital account figures were meticulously scrutinized and a show cause notice was issued regarding unaccounted cash and unexplained entries totalling to ₹78,71,507/- and the total income was computed at ₹1,07,18,760/-. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. CIT(A) who, vide order dated 10.05.2024, dismissed the appeal of the assessee and his finding is as under:

*“3.1. As evident from the findings of the AO elaborated above in the assessment order, the appellant sought to evade tax on the excess stock of*

*Rs. 32,77,500/- discovered during the course of survey action at the business premises, by inserting re-appraisal of stock claimed to have taken place on 13.01.2015 a month ahead of arrival of income-tax authorities for survey. During the appellate proceedings, no justification is filed in support of the claims made in the grounds of appeal. The appellant has uploaded attachments which include form 35, computation sheet, and bank statements which were submitted during the assessment proceedings and considered by the AO before drawing the above conclusion. However, during the appellate proceedings, there is no written submission to explain the discrepancy found in the trading account with respect to closing stock. It is also noticed that, inquiries conducted by the AO with respect to verification of sundry creditors did not yield any response from two parties nor any explanation was filed by the appellant with respect to the Purchase A/c. In these circumstances, the action of the appellant is apparent and the addition of 32,77,500/- is confirmed.*

*3.2 In the result, the appeal is treated as 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 there was a survey u/s 133A of the Act on 26.02.2015 in which stock difference of ₹32,77,500/- was found. The assessee himself offered this difference of stock for tax and paid 30% of tax but the Ld. AO again added a sum of ₹ 32,77,500/- by stating that the same had been introduced by the proprietor's capital account. Our attention was drawn to page 8 of the paper book in this regard. The Ld. AR submitted that this is tantamount to double addition and therefore, stated that the requisite relief may be allowed.

6. The Ld. DR on the other hand, stated that before the Ld. CIT(A) no submission was made by the assessee to explain the discrepancy and drew our attention to page 3 of the assessment order in which the GP has been discussed. The disclosure was found to be tax neutral and the

addition was confirmed by the Ld. CIT(A) on account of lack of submission.

7. The Ld. AR in the rejoinder submitted that the assessee was asked by the Ld. AO to furnish three different trading accounts as mentioned at page 3 of the assessment order and the Ld. AO had taken incorrect sales. The assessee has filed the written submission, the extract of which is as under:

*“1. That a survey u/s 133A of the I.T. Act, 1961 was carried out in the shop premises of the assessee on 26.02.2015 in which the stock of the business was inventorised and a difference amounting to Rs. 32,77,500 was detected by the Authorised officer in absence of books of accounts, which was lying with the Munshi (Accountant) of the firm.*

*2. That in the line of business of assessee old ornaments are purchased on eye estimation only. After getting these ornaments in purity it results into short or excess weight. So, a physical verification of stock was carried out by management well before the survey and the stock difference of Rs. 32,77,500 was noticed for which entry in the Books of Accounts of assessee was passed by debiting purchase Account resulting into increase of closing stock and crediting capital Account.*

*3. That the assessee had furnished Return of income showing a Gross total Income of Rs. 75,12,049 which included Rs. 41,89,632 as business income and under the head income from other sources of Rs. 33,22,417 (Rs. 32,77,500 for stock difference offered for taxation u/s 115BBE at maximum marginal rate at 30% and no expenditure or allowance claimed as per sub section (2) of section 115BBE and Rs.44,917 as interest income). The computation of income and Acknowledgment of Return was furnished before the Assessing officer and also before the learned CIT(Appeal) (Paper Book Page No.5 & 6).*

*4. That the Assessing officer and also the learned CIT(Appeal) has wrongly held that the assessee had passed entry in Books of account for difference of stock of Rs. 32,77,500 by crediting Capital Account and debiting Closing Stock but the assessee had rightly passed entry by Debiting Purchases Account and crediting Capital Account by the said amount which was evident from the Books of Account and Audited Trading Account, Capital Account and Balance Sheet in the record of the Department (Paper Book Page No. 7 to 9).*

5. That the Books of Accounts of the assessee was accepted by the Assessing Officer. During the Assessment proceedings neither explanation was asked by the Assessing Officer nor mentioned anywhere in the order that how entry passed by the assessee in above respect is wrong and resulted into under statement of income twice the amount of Rs. 32,77,500 whereas in capital Account also credit is for Rs.32,77,500 only besides normal business income of Rs. 41,89,632.

6. That the Assessing officer and also the learned CIT(A) has wrongly held that with purchase and stock exit of Rs. 32,77,500 G.P. slippage 2.26%, thus this stock disclosure is not profit neutral.

7. That there is no difference in trading Account between the gross profit rate shown by the assessee after taking into account the difference of stock amounting to Rs. 32,77,500 in purchases Account and if no appraisal of stock had taken place in Trading Account. The gross profit rate and amount remain the same as 30.30% and Rs. 48,66,335 respectively.

8. That the assessee was asked to submit trading account as if no re-appraisal of stock had taken place for the following period.

01.04.2014 to 26.02.2015

27.02.2015 to 31.03.2015

01.04.2014 to 31.03.2015

The assessee had furnished the above period trading account without taking into account re-appraisal of stock which is lying in the record of the Assessing officer as under:-

**Trading A/c for the period of 01.04.14 to 26.02.15**

To Opening stock	49,32,949.22	By Sales	1,30,85,664.50
To purchase	1,31,66,109.16	By Closing Stock	95,15,394.33
To Majduri	2,40,317.00		
To Gross Profit	42,61,683.45		
	<b>2,26,01,058.83</b>		<b>2,26,01,058.83</b>

**Trading A/c for the period of 27.02.15 to 31.03.15**

To Opening stock	95,15,394.33	By Sales	29,72,178.00
To purchase	5,21,420.20	By Closing Stock	76,89,299.42
To Majduri	20,008.00		
To Gross Profit	6,04,654.89		
	<b>1,06,61,477.42</b>		<b>1,06,61,477.42</b>

**Trading A/c for the period of 01.04.14 to 31.03.2015**

To Opening stock	49,32,949.22	By Sales	1,60,57,542.50
To purchase	1,36,87,529.36	By Closing Stock	76,89,299.42
To Majduri	2,60,325.00		
To Gross Profit	48,66,338.34		
(30.30%)	<b>2,37,47,141.92</b>		<b>2,37,47,141.92</b>



9. That therefore the gross profit rate of 30.30% remains the same, even without taking into account Stock difference of Rs. 32,77,500 in Purchases Account (re-appraisal of stock). The Assessing officer has wrongly taken sales Rs. 1,30,85,664 (sales for the period 01.04.2014 to 26.02.2015) instead of Sales Rs. 1,60,57,542 and Closing Stock Rs. 95,15,394 (closing stock as on 26.02.2015) instead of Rs.76,89,299 but taken rightly figure of Opening Stock Rs.49,32,949, Purchases Rs.1,36,87,529 and Majduri Rs.2,60,325.

That is why the Gross Profit has wrongly been arrived amounting to Rs.42,61,683 and the G.P rate became 32.56%.

10. That there are two Sundry Creditors whose confirmation did not come and dues was outstanding at the end of the year i.e. one being Sri Sai Jewellers amounting to Rs.84,885 and other Ramcharan Jagdish Soni, Varanasi amounting to Rs.10,15,559. The business of Ramcharan Jagdish Soni, Varanasi was closed and shifted to some other place due to that the letter sent by the Assessing officer (A.O) was returned undelivered on 30.10.2017 with postal comment- "left".

11. That the payment to Sri Sai Jewellers was made on 11.09.2015 through Cheque No. 285778 of HDFC Bank, Beta chowk, Laheriasarai and payment to Ramcharan Jagdish Soni was made through Central Bank of India, Laheriasarai as under:-

Dt. 22.09.2015 Cheque No. 026221      Rs.3,50,000

Dt. 12.01.2016 Cheque No. 026235      Rs.6,65,579      (Rs.20      Bank  
Commission)

The Banker' Certificate issued by the Bank with regard to respective parties has been furnished herewith (Paper Book Page No. 10 & 11)

12. That under the above Facts and Circumstances of the case addition of Rs.32,77,500 on account of difference in Stock is uncalled for, illegal and without any basis and amounts to double addition which is against the Principle of Natural Justice and therefore fit to be modified."

8. We have considered the submissions made. However, a perusal of the profit and loss account filed by the assessee in the paper book submitted before us shows that although the assessee claims to have paid tax on the excess stock found; however, a sum of ₹32,77,500/- has also been included in the purchases on account of stock difference. That



being so, the addition becomes tax neutral as has been mentioned by the Ld. DR and the amount does not appear to have been subjected to any tax. Since to this extent the assessee had also claimed expenditure on account of purchases. Hence, we do not find any justification for the relief claimed nor any reason to interfere with the order of the Ld. CIT(A) and the same is hereby confirmed.

9. In the result, the appeal filed by the assessee is dismissed.

**Order pronounced in the open Court on 8<sup>th</sup> December, 2025.**

*Sd/-*

**[George Mathan]**  
Judicial Member

*Sd/-*

**[Rakesh Mishra]**  
Accountant Member

Dated: 08.12.2025

*Bidhan (Sr. P.S.)*



*Copy of the order forwarded to:*

1. **Gopaljee Prasad, Proprietor. M/s Swarnalaya Jewellers, Laheriasari, Darbhanga, Bihar, 846001.**
2. **DC/AC Cir-3, Darbhanga.**
3. CIT(A)-NFAC, Delhi.
4. CIT-
5. CIT(DR), Patna Bench, Patna.
6. Guard File.

*// True copy //*

By order

Assistant Registrar  
ITAT, Kolkata Benches  
Kolkata