

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

[Virtual Court]

Before

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

**ITA No.: 245/PAT/2025  
Assessment Year: 2017-18**

Mohammad Saidullah <b>(Appellant)</b>	Vs.	ITO, Ward-1(3), Motihari <b>(Respondent)</b>
<b>PAN: BMAPS4848B</b>		

**Appearances:**

**Assessee represented by** : Sanjeev Kumar, Adv.

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

Date of concluding the hearing : 15-October-2025

Date of pronouncing the order : 10-December-2025

**ORDER**

**PER RAKESH MISHRA, ACCOUNTANT MEMBER:**

This appeal filed by the assessee is against the order of the Addl/JCIT(A)-1, Gurugram [hereinafter referred to as Ld. 'Addl/JCIT(A)'] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for AY 2017-18 dated 24.04.2025.

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

*"1. For that the orders of the Authorities below are bad in law and facts.*

*2. For that the learned Addl. CIT(A) should have asked for further clarification/evidences before confirming the additions/disallowances.*

*3. For that the agricultural income of Rs. 1,23,255/- received from sale of paddy through PAX and payment received through banking channels should not have been disbelieved and addition should not have been made as income from other sources.*



4. For that the addition of Rs.4,90,000/- u/s 68 of the I.T. Act. is patently wrong and invalid, when the gifts were received through banking channels and bank statement of donor were filed during course of hearing.

5. For that the donor is having only agricultural income and was not obliged to file ITR. The identity, genuineness and creditworthiness of the donor are proved beyond doubt from the submission and copy of bank account filed. The addition is liable to be deleted.

6. For that the addition of Rs.6,44,800/ on account of difference in the purchase consideration and SDV of the land is not justified, without reference to the DVO, particularly when the reasons for lower rate were submitted before the learned Addl. CIT(A).

7. For that the learned Addl. CIT(A) should have compulsorily referred for valuation to DVO before confirming the addition, when the facts narrated before him regarding the lower valuation of land were accepted by him.

8. For that the estimated and adhoc disallowance of expenditure @20% amounting to Rs.1,38,302/- is not permissible without quoting single instance of not being genuine.

9. For that the books of accounts have been accepted in the assessment and the order was passed u/s 143(3). Moreover, the net profit rate has also increased in spite of increase in turnover. Estimated disallowance in such circumstances should not have been made.

10. For that other grounds, if any, will be urged at the time of hearing.”

3. Brief facts of the case are that the assessee runs a retail outlet of cooking gas agency in the name of Ansar Indane Gramin Vitrak at Adapur. The assessee had e-filed his return of income showing total income of ₹6,58,260/-. The case was selected for scrutiny and the statutory notices u/s 143(2) and 142(1) of the Act were issued which were duly served upon the assessee. The assessee had shown agricultural income of ₹1,23,255/- which was added by the Assessing Officer (hereinafter referred to as Ld. 'AO') to the returned income of the assessee as there were no supporting documents to establish the source of the deposit. Further, the assessee had shown a sum of ₹4.90 Lakh in the balance sheet as gift from his brother which was also added to the



returned income of the assessee u/s 68 of the Act as the creditworthiness of the donor of the gift was not proved. The Ld. AO also added a sum of ₹6,44,800/- as income from other sources and made disallowance of ₹1,38,302/- out of the expenses claimed and assessed the total income of the assessee at ₹20,54,617/- u/s 143(3) of the Act. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. CIT(A), who granted opportunities of being heard to the assessee. The Ld. CIT(A) has as reproduced the contents of Form No. 35 in the appeal order, the reply of the assessee filed on 29/02/2024 and 23/04/2024 in which the assessee stated that the deposits in the bank account were out of the agricultural income, the gift was from the brother who was also an agriculturist and a senior citizen. As regards Income from Other Sources, it was stated that the actual value of land was as mentioned in the sale deed, and there were other reasons justifying the price and, therefore, there was no question of any addition under section 56(2)(x) of the Act. As regards the disallowance made on account of expenses claimed on estimated basis, the assessee contended that the Ld. AO had ignored the facts and nature of business and, therefore, the addition should be deleted. Thereafter, the the Ld. CIT(A) has reproduced the assessment order and after discussing the issues has dismissed the appeal of the assessee by upholding the additions made by the Ld. AO.

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

5. During the course of the proceeding before us, the assessee has filed certain documents being the land revenue receipt of the assessee, the paddy MSP payment advice by Cooperative Department, bank



statement in which payment was received, bank statement of his brother Md. Saifullah, the donor, the confirmation of gift, land revenue receipt showing possession of land by Md. Saifullah, confirmation from the purchaser of transfer of payment of ₹2,80,000/-. It was submitted that the assessee is an agriculturist and our attention was also drawn to page 2 of the paper book, which is the paddy MSP payment advice for the year 2016-17 in which the transaction of ₹1,23,255/- is mentioned. Apparently, some of these documents were not filed before the Ld. AO nor even before the Ld. CIT(A) and the Ld. AR requested that an opportunity may be provided to the assessee to file these documents before the Ld. AO so that the additions which are not warranted on facts of the case may be deleted. The Ld. DR relied upon the order of the appellate authority and requested that the same may be confirmed but had no serious objection if the matter were to be remanded to the Ld. AO.

6. We have considered the submissions made, gone through the facts of the case and perused the record and the order of the Ld. CIT(A). After examining the facts of the case and the law, and in the interest of justice and fair play, we deem it appropriate to set aside the order of the Ld. CIT(A) and remand the matter to the Ld. AO for making the assessment *de novo* as the assessee as the required documents could not be filed either before the AO or even before the Ld. CIT(A). 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, all 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 10<sup>th</sup> December, 2025.**

*Sd/-*

**[Sonjoy Sarma]**  
Judicial Member

*Sd/-*

**[Rakesh Mishra]**  
Accountant Member

Dated: 10.12.2025

*Bidhan (Sr. P.S.)*



*Copy of the order forwarded to:*

1. **Mohammad Saidullah, Prop- Ansar Indane Gramin Vitrak, Majharia Adapur, Motihari, Bihar, 845301.**
2. **ITO, Ward-1(3), Motihari.**
3. Addl/JCIT(A)-1, Gurugram.
4. CIT-
5. CIT(DR), Patna Benches, Patna.
6. Guard File.

*// True copy //*

By order

Assistant Registrar  
ITAT, Kolkata Benches  
Kolkata