

INCOME TAX APPELLATE TRIBUNAL: GAUHATI BENCH : GUWAHATI

In Virtual hearing

BEFORE SHRI MANOMOHAN DAS, HON'BLE JUDICIAL MEMBER

AND

SHRI SANJAY AWASTHI, HON'BLE ACCOUNTANT MEMBER

ITA No. 49 / GTY / 2025

AY: 2017-18

Solaiman Bhuyan S/o Sattar Bhuyan P.O. Jatradia, Village: Barbhitha PIN- 781305 (Assam) PAN: ALFPB3859A	The ITO, Ward-Barpeta
(Appellant)	(Respondent)

Assessee By:	Shri Chaman Banthia, FCA
Department By:	Shri Kausik Ray JCIT
Date of Hearing:	06-08-2025
Date of Pronouncement:	15.10.2025

ORDER

PER MANOMOHAN DAS, JM

The assessee filed this appeal against the order of the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi (hereinafter referred to as the ("CIT(A)" dated 26.12.2024 passed under Section 250 of the Income Tax Act, 1961 (hereinafter referred to as the 'Act') and pertains to the Assessment Year 2017-18.

2. The brief facts of the case are that, the assessee, during the demonetization period from 09.11.2016 to 30.12.2016 made cash deposit in his bank accounts maintained with the HDFC Bank Ltd at Barpeta and State Bank of India, Barpeta respectively amounting to Rs. 13,18,500/-. Therefore, the Id. Assessing Officer issued notice u/s 142(1) of the Act dated 09.03.2018 asking the assessee to file return of income for AY 2017-18 on or before 31.03.2018. However, the assessee have failed to comply with the notice and failed to file return of income as per the provisions of section 139 of the Act. Since, the assessee failed to file the return of income and also not complied with the notice issued u/s 142(1) of the Act, a show cause notice for launching prosecution u/s 276CC and 276C91 of the Act was issued to the assessee on 22.05.2018. However, the assessee failed to comply the same. As the assessee did not respond to the notices issued as aforesaid, the Id. Assessing Officer proceeded to complete the assessment u/s 144 of the Act. The Id. AO treated the cash deposited amount of Rs. 13,18,500/- to the total income of the assessee.

3. Being aggrieved, the assessee filed 1st appeal before the Id. CIT(A). The Id. CIT(A) vide order dated 26.12.2024 dismissed the appeal of the assessee.

4. Being aggrieved, the assessee filed the present appeal before the Tribunal.

5. We observe that, the Id. CIT(A) dismissed the appeal of the assessee by citing the reason that, the assessee failed to show sufficient cause for not filing of the appeal within the stipulated time for filing of appeal. The Id. CIT(A) observed

that, the assessee failed to show cause for the period prior to covid-19 period. Accordingly, the Id. CIT(A) dismissed the appeal of the assessee.

6. We observe that, the assessment order was an ex-parte order, and the Id. CIT(A) dismissed the appeal of the assessee by treating the appeal as time barred. The assessment order could not be passed on merit due to non-participation by the assessee in the assessment proceedings.

7. Since, the assessment order was an ex-parte order, and the appeal of the assessee has been dismissed by the Id. CIT(A) on account of the delay in filing of the appeal, it is our considered opinion that, the assessee should substantiate his case before the Id. AO. Therefore, we set aside the order of the Id. CIT(A) dated 26.12.2024 and remand the case of the assessee to Id. AO for fresh consideration. We direct the Id. AO to reframe the assessment after giving the assessee an opportunity of being heard. At the same time, we direct the assessee to substantiate his claims before the Id. AO. Thus, we allow the appeal of the assessee for statistical purposes only.

8. In the result, the appeal of the assessee is allowed for statistical purposes only.

9. Order pronounced in the open court on this 15th day of October, 2025.

Sd/-

(Sanjay Awasthi)
Accountant Member
Date: 15 .10 .2025

Sd/-

(Manomohan Das)
Judicial Member

Copy forwarded to:-

1. Solaiman Bhuyan, S/o Sattar Bhuyan, P.O. Jatradia,
Village: Barbhitha, PIN- 781305 (Assam)
2. The ITO, Ward, Barpeta
3. The Pr. CIT
4. The CIT(A)
5. The DR
6. Guard file

By Order

Assistant Registrar
ITAT, Guwahati / Kolkata