

IN THE INCOME TAX APPELLATE TRIBUNAL
“PATNA BENCH”, PATNA
(VIRTUAL HEARING AT KOLKATA)

SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER
SHRI SONJOY SARMA, JUDICIAL MEMBER

ITA No. 364/PAT/2025
Assessment Year : 2018-19

Pan Tutorials Private Limited, 98, Gandhi Nagar, West Boring Canal Road, Patna - 800001 [PAN: AAGCP1889H]	Vs.	The Commissioner of Income Tax (Appeals), CIT(A), Patna-3
APPELLANT		RESPONDENT

Assessee by	:	Sh. Shree Kant Prasad, Adv.
Revenue by	:	Sh. Manab Adak, JCIT

Date of hearing	:	14.01.2026
Date of Pronouncement	:	19.01.2026

ORDER

PER LAXMI PRASAD SAHU, ACCOUNTANT MEMBER

This is an appeal filed by the assessee against the order passed u/s 250 of the Income Tax Act, 1961 (hereafter “the Act”) by the Ld. Commissioner of Income Tax (Appeals), Patna-3 [hereafter “the Ld. CIT(A)] dated 11.06.2025, DIN & order No. ITBA/APL/S/250/2025-26/1076913005(1) challenging the order of the Ld. CIT(A).

2. Briefly stated the facts of the case are that a survey u/s 133A of the Act was conducted in the case of the assessee. Accordingly, notice issued to the assessee u/s 143(2) of the Act on 20.09.2019 and

subsequently, other statutory notices issued to the assessee. During the course of survey proceedings, the fee received from the students for various course was calculated at Rs. 2,00,62,200/- and projected profit of Rs. 92,06,910/-. Further it was asked to the assessee that the difference course fee calculated for running coaching classes should be considered as income of the assessee. On perusal of the profit & loss account it was noted that the assessee has shown its turnover of Rs. 1,19,45,958/- therefore, the difference amount of Rs. 81,16,042/- was treated as income of the assessee.

3. Aggrieved from the above order, the assessee filed appeal before the Ld. CIT(A). The Ld. CIT(A) after considering the submissions of the assessee dismissed the appeal of the assessee.

4. Aggrieved from the above order, the assessee is in appeal before ITAT.

5. The Ld. Counsel reiterated the submission of the assessee he submitted that the total fee received for the year under consideration is Rs. 1,71,31,000/-. Further, the AO has estimated fee from students of Rs. 2,62,00,000/-, the actual turnover for the year is Rs. 1,19,45,958/- the gross received shown in Profit & Loss account is excluding of GST 18% (approximately 65 to 78%) fee is received in the month of April to September and the some of students do not pay the second instalment and drop out to meet the competition in the market. There some concessions are also given to the some students and scholarship are also given to the meritorious students. He further submitted that in the preceding assessment years the gross receipts shown by the assessee have been accepted by the Revenue and no any assessment is pending for the previous assessment years, the projection made by the AO is only on the basis of enrolled students and fee charged by the appellant company as per the fee structures, it

is purely the guess work there is no any cogent documents for verifications, the fee includes GST which has been deducted from the gross receipts. Other miscellaneous factors had not been considered as observed (supra).

6. On the other hand, the Ld. DR relied on the order of the lower authorities and submitted that during the course of assessment proceedings it was the duty of the assessee to prove the actual fee received for the year under consideration which documentary evidences. During the course of survey u/s 133A of the Act it was found that the gross receipts are not shown correctly by the assessee the estimation made by the AO during the survey is incorrect and he requested that the order of Ld.CIT(A) should be upheld.

7. Considering the rival submissions and perusing the material available on record and order of authorities below. We note that on the basis of survey u/s 133A of the Act the AO estimated the gross receipt of the assessee of Rs. 2,00,62,000/- in the return of income, the assessee has shown gross receipt of Rs. 1,19,45,958/-, therefore, the difference amount of Rs. 81,16,042/- has been considered as income of the Ld. CIT(A) has upheld the order of the AO. We noted that the assessee had two opportunities to explain the difference as observed by the Revenue Officer but he could not substantiate. He could not controvert the observation of the revenue authorities even before us with sufficient documents. This case is a suppression of turnover/gross receipts. However, it is not clear that in the estimation made by the AO includes GST are net of GST. There are various judgments decided by the Hon'ble Court and coordinate Benches of the Tribunal that in the case in the suppression of sales only the net GP e can be added. Therefore, this issue is remitted back to the file of AO for calculation of gross profit excluding GST on the estimation

made by the AO and the AO is directed to apply the gross profit rate on the suppressed turnover of the assessee and decide the issue as per law after given a reasonable opportunity of being heard to the assessee

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

Order pronounced on 19.01.2026

Sd/-
(Sonjoy Sarma)
Judicial Member

Sd/-
(Laxmi Prasad Sahu)
Accountant Member

Dated: 19.01.2026

AK, Sr. P.S.

Copy of the order forwarded to:

1. Appellant
2. Respondent
3. Pr. CIT
4. CIT(A)
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches