

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“PATNA BENCH, PATNA**  
**VIRTUAL HEARING AT KOLKATA**

**Before Shri Laxmi Prasad Sahu, Accountant Member  
and Shri Sonjoy Sarma, Judicial Member**

**I.T.A. Nos.464&465/Pat/2025**  
Assessment Year: 2018-19

**Mohammed Wasim Akram.....Appellant**

AT/PO – Madhepur, Barsol,  
PS-Telta, Katihar, Bihar- 854317..  
**[PAN: BFCPA6650Q]**

**vs.**

**ITO, Katihar..... Respondent**

**Appearances by:**

Shri Nishant Gaurav, AR, appeared on behalf of the appellant.  
Shri Manab Advak, JCIT, appeared on behalf of the Respondent.

Date of concluding the hearing : January 15, 2026

Date of pronouncing the order : January 19, 2026

**आदेश / ORDER**

**Per Sonjoy Sarma, Judicial Member:**

These two appeals are filed by the assessee and are directed against two separate orders passed by the learned Commissioner of Income Tax (Appeals), both dated 14.08.2025. ITA No. 464/Patna/2025 arises out of the assessment order passed under section 147 read with section 144 of the Income-tax Act, 1961, whereas ITA No. 465/Patna/2025 relates to the penalty imposed under section 271AAC(1) of the Act for the same assessment year. Since the issues involved in both the appeals are common, interconnected, and pertain to the same assessee, except that one relates to the assessment proceedings and the other to penalty proceedings, both the appeals

were heard together and are being disposed of by this common order for the sake of convenience.

2. Brief facts of the case in ITA No. 464/Patna/2025 is as under:-  
The assessee is a non-filer of income-tax return for the relevant assessment year. It was noticed by the Assessing Officer that the assessee had deposited and withdrawn substantial amounts of cash in his bank account. Accordingly, notice under section 148 of the Act was issued. Despite issuance of statutory notices and opportunities provided by the Assessing Officer, the assessee remained non-compliant. Consequently, the Assessing Officer completed the assessment ex-parte under section 147 read with section 144 of the Act and made an addition of ₹1,60,88,847/- under section 69A of the Act, treating the same as unexplained money.

3. Aggrieved, the assessee filed an appeal before the learned CIT(A). However, there was a delay of 9 months 27 days in filing the appeal. The learned CIT(A) dismissed the appeal solely on the ground of delay, without adjudicating the issues on merits. Being dissatisfied, the assessee is in appeal before the Tribunal.

4. The learned counsel for the assessee submitted that the learned CIT(A) dismissed the appeal merely on technical grounds without granting an effective opportunity of hearing and without examining the merits of the case. It was contended that the assessee deserves one more opportunity in the interest of justice.

5. On the other hand, the learned Departmental Representative supported the orders of the authorities below.

6. We have heard the rival submissions and perused the material available on record. We find that the learned CIT(A) dismissed the assessee's appeal only on the ground of delay, without going into the merits of the additions made by the Assessing Officer. Even before us, it is evident that the assessment itself was framed ex-parte due to non-compliance. However, considering the principles of natural justice, we are of the view that the assessee should be granted one more opportunity to contest the matter on merits. Accordingly, in the interest of justice and fairness, we set aside the order of the learned CIT(A) and remand the matter back to the file of the AO with a direction to adjudicate the appeal afresh on merits after providing reasonable opportunity of being heard to the assessee. The assessee is also directed to fully cooperate and comply with the notices issued by the authorities.

7. ITA No. 465/Patna/2025 - This appeal relates to penalty proceedings under section 271AAC(1) of the Act. The appeal before the learned CIT(A) was dismissed due to a delay of one year, two months, and seventeen days, again without adjudicating the matter on merits. The learned counsel submitted that since the quantum assessment itself has been set aside and remanded, the penalty proceedings cannot survive independently.

8. We find merit in the submissions of the assessee. Since the very foundation of the penalty, i.e., the assessment order, has been set aside and remanded to the file of the AO, the penalty proceedings under section 271AAC(1) presently have no legs to stand on. Accordingly, the penalty order is set aside, with liberty to the Assessing Officer to initiate penalty proceedings afresh, if so warranted, in accordance with law,

depending upon the outcome of the quantum proceedings. Thus, ITA No. 465/Patna/2025 is allowed for statistical purposes.

9. In the result, both the appeals are allowed for statistical purposes.

***Kolkata, the 19<sup>th</sup> January, 2026.***

Sd/-

**[Laxmi Prasad Sahu]**

लेखा सदस्य/Accountant Member

Sd/-

**[Sonjoy Sarma]**

न्यायिक सदस्य/Judicial Member

Dated: 19.01.2026.

*Copy of the order forwarded to:*

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

//True copy//

By order

Assistant Registrar, Kolkata Benches