

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

**[Virtual Court]**

**Before**

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

**ITA No.: 405/PAT/2025  
Assessment Year: 2017-18**

ITO, Ward-1(5), Katihar <b>(Appellant)</b>	Vs.	Birendra Kumar Sancheti <b>(Respondent)</b>
<b>PAN: ADLPS8169A</b>		

**Appearances:**

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

**Assessee represented by** : Vikash Surana, CA.

Date of concluding the hearing : 06-January-2026

Date of pronouncing the order : 30-January-2026

**ORDER**

**PER RAKESH MISHRA, ACCOUNTANT MEMBER:**

This appeal filed by the Revenue 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 2017-18 dated 05.03.2025.

1.1 The Registry has informed that the appeal is barred by limitation by 96 days. The Revenue has filed a petition for condonation of delay explaining the reasons as under:

*"In the case, Centralised Scrutiny report was initiated after receipt of order u/s 250 and initially the same was submitted with not considering fit for 2nd Appeal. A clarification was received in this regard from Range Head and during the re-submission of CSR the proceedings get disappear from the worklist due to system error. The worklist is not appearing presently so that date of first submission of CSR report is not known. When the proceeding did not appear in CSR functionality of the ITBA same was initiated again*

*which resulted into the delay of 138 days and accordingly leading to late submission of scrutiny report.”*

1.2 After perusing the same, we are satisfied that the Revenue had a reasonable and sufficient cause and was prevented from filing the instant appeal within the statutory time limit. We, therefore, condone the delay and admit the appeal for adjudication.

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

*“i. Whether on the facts and in the circumstances of the case and in law, the CIT(A) has erred in deleting the addition of Rs 1,45,56,667/- made by A.O by accepting additional evidence submitted by the Assessee without allowing the Assessing officer an opportunity to examine and submit his report/argument, as per Rule 46A of the Income tax Rule, 1962.*

*ii. Whether on the facts and in the circumstances of the case and in law, the action of the CIT(A) in not allowing the Assessing officer any opportunity of being heard was in contravention of Rule 46A of the Income tax Rule, 1962.*

*iii. Any other ground that may be urged at the time of hearing.”*

3. Brief facts of the case are that in this case, no return of income was filed as required under the provisions of section 139. The assessee is an individual and claimed to be carrying on his cloth business under the name & style of M/s. Balaji Trading Company. Subsequently, the proceedings u/s. 147 of the I.T. Act, 1961 were initiated and a notice u/s. 148 was issued on 25/03/2021, with the prior approval of the competent authority. The main issue involved in this case, which formed basis for initiation of proceedings u/s. 147 of the Act was that as per information available with the department, it was noticed that during the year under consideration [i.e. during the F.Y. 2016-17 relevant to A.Y. 2017-18], the assessee had made cash deposits totaling to Rs. 1, 45,56,667/- in his Bank Accounts [current account + saving bank account + time deposit etc.] maintained with the Banks. Since, no



ITR was voluntarily furnished by the assessee in view of the provisions of section 139, it was held by the Assessing Officer (“the Ld. AO”) that the assessee had not fully disclosed his income and thereby his income to the extent of Rs. 1,45,56,667/- had escaped assessment. Accordingly, the proceedings u/s. 147 of the I.T. Act, 1961 were initiated and a notice u/s. 148 was issued on 25/03/2021, with the prior approval of the competent authority. The addition of ₹1,45,56,667/- was made as the assessee failed to furnish satisfactory explanation and the total income was assessed at ₹ 1,48,47,897/-. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. CIT(A) who allowed the appeal as under:

**“6. Decision:** *I have considered the facts of the case, written submission and case laws relied upon by the appellant as against the observations and findings of the AO in the assessment order. The submissions and contentions of the appellant are discussed and decided as under:*

**6.1 Ground No.1:** *In this ground the appellant has challenged the addition worth Rs. 14556667 u/s 69A of the Income Tax Act on account of unexplained cash deposits. The AO was not satisfied with the submission of the appellant, hence AO made the addition.*

**6.1.1** *Now before me in the appellate proceedings, the appellant has filed written submission. The appellant has submitted that it is doing business of Trading of Sarees at Katihar. The appellant has filed the details of the turnover, the cash flow statement, the details of purchases, the quantitative stock, the details of sales, the details of GP and NP before me in the appellate proceedings. The AO in the assessment order stated that the Return of Income was not filed, but the appellant has filed the copy of income tax return, which was filed earlier. The appellant has stated that entire cash deposits is out of cash sales. The appellant has filed some of the bills and vouchers of purchase and sales before me in the appellate proceedings. The bank statements and details of drawings have also been filed. Therefore, the appellant has been able to prove that the various cash deposits are out of the business of Trading of Sarees at Katihar. Hence the addition of the AO is deleted and appeal of the appellant is allowed.*

**6.3 Ground No.4 & 5:** *These grounds are consequential and general in nature and do not require to be adjudicated.*



**7. The appeal of the appellant is *Allowed.***”

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

5. Rival submissions were heard and the record and the submissions made have been examined.

6. It was submitted by the Ld. DR that the Ld. CIT(A) accepted the additional evidences which were not filed before the Ld. AO without calling for a remand report and allowed the appeal of the assessee which is in violation of rule 46A of the I.T. Rules, 1962. Our attention was drawn to pages 36, 37 and 38 of the paper book being cash flow statement, bank flow statement and details of stock and it was stated that before the Ld. AO only the balance sheet, the purchase and sale details were filed. The Ld. AR was fair enough to admit that the Ld. CIT(A) should have called for a remand report which was not called for by him. The Ld. DR vehemently argued that the order of AO may be sustained as no details were filed before him.

7. 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). Since the required details were not filed before the Ld. AO, the Ld. CIT(A) ought to have called for a remand report on the additional evidences filed by the assessee. He has not even carried out any analysis for the cash deposited in the bank account and no such details are discernible from the appeal order. Hence, in the interest of justice and fair play, the order of the Ld. CIT(A) is liable to be set aside and the appeal is remanded to him to be done afresh. Therefore, after examining the facts of the case and the law, we deem it appropriate to set aside the order of the Ld. CIT(A) and restore the appeal to the Ld. CIT(A) for disposal of



the grounds of appeal taken by the assessee on merits by passing a speaking order. 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 and rule 46A of the I.T. Rules, 1962 shall also be followed, a remand report may be called for from the Ld. AO and an opportunity of being heard may be provided to the Ld. AO, if required. Accordingly, the grounds taken by the Revenue in this appeal are partly allowed for statistical purposes.

8. In the result, the appeal filed by the Revenue is partly allowed for statistical purposes.

**Order pronounced in the open Court on 30<sup>th</sup> January, 2026.**

*Sd/-*

**[Sonjoy Sarma]**  
Judicial Member

*Sd/-*

**[Rakesh Mishra]**  
Accountant Member

Dated: 30.01.2026

*Bidhan (Sr. P.S.)*



*Copy of the order forwarded to:*

1. **ITO, Ward-1(5), Katihar.**
2. **Birendra Kumar Sancheti, M.G. Road, Katihar, Bihar, 854105.**
3. CIT(A)-NFAC, Delhi.
4. CIT-
5. CIT(DR), Patna Benches, Patna.
6. Guard File.

*// True copy //*

By order

Assistant Registrar  
ITAT, Kolkata Benches  
Kolkata