

**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.: 410/PAT/2025  
Assessment Year: 2018-19**

Amit Kumar <b>(Appellant)</b>	Vs.	CIT(A), NFAC, Delhi <b>(Respondent)</b>
<b>PAN: AXPPK3128F</b>		

**Appearances:**

**Assessee represented by** : None.

**Department represented by** : Md. A H Chowdhury, CIT (DR).

Date of concluding the hearing : 05-January-2026

Date of pronouncing the order : 29-January-2026

**ORDER**

**PER RAKESH MISHRA, ACCOUNTANT MEMBER:**

This appeal filed by the assessee 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 2018-19 dated 10.07.2025.

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

*"1. For that the Commissioner of Income-tax (Appeals), National Faceless Appeal Centre, Delhi, [the CIT(A)] erred on facts and in law by allowing appeal partially, the appeal filed by the appellant by confirming the assessment order passed by the Addl/Joint/Deputy/Asst/ITO National Faceless Assessement Center of income (the A.O), assessing the appellant under section 143(3) r.w. 144 of the Income tax Act, 1961, ('the Act') at an income of Rs 3,74,76,426/- as against returned income of Rs 10,16,880/-*



2. For that the learned has erred in the facts and circumstances of the case in arbitrarily confirming addition of Rs 3,61,07,900/- under the heads as detailed under, which is wrong, illegal and unjustified:

Sl.No.	Particulars	Amount (Rs.)	Amount (Rs.)
A.	Returned Income	10,16,880/-	-
I	on Addition presumption basis treated as non agriculture Income during the year.	3,61,07,900/-	-
B	Assessed Income R/o	3,74,76,426/-	-

3. For that the learned CIT(A) has erred in confirming partially the action of the AO in treating the amount of Rs 72,00,000/- as suspiciously making addition on the basis of Deposit of cash. The assessment is erroneous, illegal, and unsupported by evidence.

4. For that the Hon'ble CIT (A) has erred in not allowing proper opportunity of being heard which is arbitrary, wrong, illegal and unjustified.

5. For that the Hon'ble CIT (A) has erred in not taking cognition of the submissions filed by the appellant before him.

6. That the whole order passed by the CIT (A) is bad in facts and law.

That the appellant craves leave to add, alter, amend, or vary the above grounds of appeal at or before the time of hearing.”

3. None appeared on behalf of the assessee and the appeal was heard with the assistance of Ld. DR. Brief facts of the case are that the assessee filed the return of income for AY 2018-19 showing total income of ₹10,16,880/-. The case was selected for scrutiny by issuing notice u/s 143(2) of the Act to which the assessee responded. The Assessing Officer (hereinafter referred to as Ld. 'AO') noted that the assessee had received commission of ₹1,86,520/- from M/s. Trycon Infrastructure Pvt. Ltd. However, from the profit and loss account submitted by the assessee, it was seen that this commission receipt had not been taken into account on the credit side in the profit and loss account. Therefore, the Ld. AO added the same to the total income of the assessee. The Ld. AO further noted that the assessee had been credited an amount of ₹ 1,93,898/- as interest income. However, from the profit and loss



account, it was seen that the interest income of ₹28,584/- only had been taken into account as interest. Hence, the difference of interest income of ₹1,65,314/- was also added to the total income of the assessee under the head 'income from other sources'. The Ld. AO also added a sum of ₹3,61,07,900/- u/s 68 r.w.s. 115BBE of the Act to the total income of the assessing and assessed the total income at ₹3,74,76,426/- u/s 143(3) r.w.s. 144B of the Act. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. CIT(A) who has reproduced the assessment order, considered the submissions made by the assessee and has held as under and partly allowed the appeal:

*"I have gone through the factual matrix of the case and perused the assessment order, grounds of appeal and other submissions of the appellant. During assessment the AO had made additions to the income of the appellant on three accounts. The issues relating to them are discussed and decided as below:*

*5.1 The first addition is on account of commission income not shown Rs. 1,86,820/-, The appellant has stated that it is not included in the taxable income in the returns due to mistake of accountant. He has accepted it. Hence there is no ground to alter the same. Accordingly this addition stands confirmed.*

*5.2 The second addition is on account of interest on FDR Rs. 1,93,898/-. The appellant has stated that this income has been duly shown in the computation of income. On verification this has been found to be true. Hence this addition is deleted and the appellant gets relief. (Relief Rs. 1,93,898/-)*

*1.1. The third addition is on account of cash deposit in current account with ICICI Bank Begusarai. Regarding this addition the appellant has stated that these deposits represent his sales. The same was stated by him during assessment proceedings also (reply dated 07.06.2021). However he could not furnish reply to the SCN issued by the AO. Accordingly he treated the deposits as unexplained and added to the income of the appellant.*

*It is observed that the account in question is a current account. It is in the name of Amit Communications, the business concern of the appellant. As such it is natural that that the credits/deposits in this account represent his*

*business proceeds. Accordingly it is not justified on the part of the AO to treat all the deposits as unexplained.*

*On going through the copy of bank statement submitted by the appellant it is observed that there are total cash deposits/credits amounting to Rs. 466.73 lakhs in this account. The sales are Rs. 336.71 lakhs and commission income is Rs. 58.03 lakhs. There is no other item that would count for it. Therefore total deposits/credits should be around Rs. 394.74 lakhs. Against this the same at Rs. 466.73 lakhs is too much on the higher side. The cash deposit of Rs. 361.08 lakh is also much higher than the total sales of Rs. 336.71 lakhs. It is also noticed that some of the vendors of the appellant have made payments through bank transfers also. Although the appellant is justified in claiming that the deposits/credits pertain to his business, he needs to justify the amount also. However he has failed to do so in part. There is no other source of cash with the appellant. In these circumstances it will be fair and justified to treat an amount of Rs. 72,00,000/- (approximate difference between total credits/deposits Rs. 466.73 lakhs and total sales and commission Rs. 394.74 lakhs) as unexplained. As such addition to this extent is confirmed and the appellant gets relief for the balance amount of Rs. 2,89,07,900/- (Relief Rs. 2,89,07,900/-.)*

*All the grounds of appeal of the appellant are disposed of through above discussion.*

*In result, the appeal is partly allowed.”*

4. Aggrieved with the order of the Ld. CIT(A), the assessee has filed the appeal before the Tribunal.
5. None appeared on behalf of the assessee and the case was heard with the assistance of the Ld. DR. The Ld. DR relied upon the order of the Ld. CIT(A) and requested that the same may be upheld.
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). The assessee did not file any evidence before the Ld. AO and before the Ld. CIT(A) also there was no proper representation. The deposits were in the current account and the same were partly treated as business receipts by the Ld. CIT(A). However, the balance amount of



₹72,00,000/- has been treated as unexplained out of the total addition of ₹3,61,07,900/- made by the Ld. AO. It is mentioned in the Grounds of appeal that the Ld. CIT(A) did not take any cognizance of the submission filed by the assessee. The bank account has regular cash deposits and there is no justification, other than the computation on the basis of sales and commission income and the total deposits in the bank account, for sustaining part of the addition. This does not appear to be justified as the assessee ought to have been confronted with the same by providing proper opportunity of being heard or after considering the submission which the assessee claims to have filed before the appellate authority. The Bench was of the view that in the interest of justice and fair play, one more opportunity needs to be provided to the assessee to explain the source of cash deposited in the bank account, a part of which has been treated as unexplained by the Ld. CIT(A) while the major part has been treated as business receipts. Hence, after examining the facts of the case, we deem it appropriate to set aside the order of the Ld. CIT(A) and restore the appeal back to the Ld. CIT(A) for disposal of the grounds of appeal taken by the assessee on merit 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 and an opportunity of being heard may be provided to the Ld. AO, if required. 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 29<sup>th</sup> January, 2026.**

*Sd/-*

**[Sonjoy Sarma]**  
Judicial Member

*Sd/-*

**[Rakesh Mishra]**  
Accountant Member

Dated: 29.01.2026

*Bidhan (Sr. P.S.)*



*Copy of the order forwarded to:*

1. **Amit Kumar, Harrakh, Meerganj, Begusarai, Bihar, 851101.**
2. **CIT(A), NFAC, Delhi.**
3. CIT(A)-
4. CIT-
5. CIT(DR), Patna Benches, Patna.
6. Guard File.

*// True copy //*

By order

Assistant Registrar  
ITAT, Kolkata Benches  
Kolkata