

**IN THE INCOME TAX APPELLATE TRIBUNAL "PATNA" BENCH, PATNA**  
**(VIRTUAL HEARING AT KOLKATA)**

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

**I.T.A. No. 317/PAT/2025**  
**(Assessment Year 2015-16)**

**Lal Babu Prasad,**  
84, Dindayal Nagar,  
Siwan - 841226  
[PAN: AJGPP3456L]

..... **Appellant**  
**vs.**

**Asst. Commissioner of Income Tax,**  
**Circle 2(1), Muzaffarpur** ..... **Respondent**

**Appearances by:**

Assessee represented by : Shri Rahul Gabhawala, CA

Department represented by : Shri Manab Adak, JCIT

Date of concluding the hearing : 14.01.2026

Date of pronouncing the order : 16.01.2026

**ORDER**

**PER SONJOY SARMA, JUDICIAL MEMBER**

This appeal arises from order dated 13.02.2024, passed u/s 250 of the Income Tax Act, 1961 (hereafter "the Act") by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereafter "the Ld. CIT(A)].

2. At the time of hearing, it was pointed out that there is a delay of 437 days in filing the present appeal. In this connection, the assessee has filed an application seeking condonation of delay. After considering the reasons stated therein and being satisfied that the delay occurred due to sufficient cause, the delay of 437 days is condoned and the appeal is admitted for adjudication.

3. Brief facts of the case are that the assessee is an individual engaged in the business of trading in gold and silver ornaments. He filed his return of income for the assessment year 2015–16. A survey under section 133A of the Income-tax Act, 1961 was conducted at the business premises of the assessee. Subsequently, the case was selected for scrutiny and notices under sections 143(2) and 142(1) of the Act were issued. On the basis of the submissions made by the assessee, a discrepancy in stock was identified at ₹3,25,06,633. After deducting the opening stock of ₹49,68,567, the net discrepancy was worked out. During the assessment proceedings, the assessee voluntarily declared additional income of ₹70,00,000 over and above the normal profit. However, the Assessing Officer further treated the closing stock of ₹43,49,933 (out of total discrepancy) as unexplained investment in stock and added the same to the total income of the assessee.

4. Further, on perusal of the tax audit report, sundry creditors amounting to ₹29,80,060 were shown as payable at the end of the year. From the ledger accounts creditors, it was noticed that trade creditors amounting to ₹5,06,766 were outstanding. Since the assessee failed to verify ₹24,73,594 was treated as unexplained cash credit and added to the total income.

5. The Assessing Officer also noticed unrecorded purchases amounting to ₹9,59,500 based on comparison of purchase entries, which were not found recorded in the books of account. The said amount was added to the total income as unexplained expenditure. Further, an amount of ₹1,40,000 was disallowed under section 43B of the Act. Accordingly, the assessment was completed making various additions.

6. The assessee preferred an appeal before the CIT(A). However, the CIT(A) dismissed the appeal ex parte due to non-compliance, without adjudicating the issues on merits.

7. Aggrieved, the assessee is in appeal before the Tribunal.

8. The learned AR submitted that the assessment involved multiple factual issues relating to stock discrepancy, trade creditors, unrecorded purchases and statutory disallowances. It was contended that the assessee did not get adequate opportunity to present his case before the Ld. CIT(A), who dismissed the appeal merely on account of non-compliance. The learned AR submitted that since the appeal was dismissed ex parte, the matter deserves to be restored for fresh adjudication.

9. On the other hand, the learned DR supported the orders of the authorities below.

10. We have heard the rival submissions and perused the material available on record. It is undisputed that the appeal before the ld. CIT(A) was dismissed ex parte due to non-compliance, without adjudicating the additions made by the Assessing Officer on merits. It is a settled position of law that the CIT(A), being a quasi-judicial authority, is duty-bound to dispose of the appeal on merits, even in the absence of the assessee. Considering the nature and magnitude of additions involved and in the interest of justice and fair play, we are of the view that the assessee deserves one more opportunity.

11. Accordingly, we set aside the impugned order and restore the entire matter to the file of the AO for fresh adjudication on merits, after affording reasonable opportunity of being heard to the assessee. The assessee is

directed to cooperate with the proceedings and comply with all notices without any further default.

12. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on 16.01.2026

Sd/-  
**(Laxmi Prasad Sahu)**  
**Accountant Member**

Sd/-  
**(Sonjoy Sarma)**  
**Judicial Member**

Dated: 16.01.2026

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

Sr. Private Secretary/Assistant Registrar, Patna Bench