

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

SHRI DUVVURU RL REDDY, VICE PRESIDENT
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER

ITA No. 503/PAT/2025
Assessment Year : 2019-20

Income Tax Officer, Ramji Sadan, Dak Bunglow Road, Near D.M. Kothi, Siwan - 841226	Vs.	Ghanshyam Dwivedi, Baniyachhapar Sohanariya, Hathua Gopalganj, 841437, Gopalganj [PAN: AUGPD6383B]
APPELLANT		RESPONDENT

Assessee by	:	Sh. Amar Kriti, Adv.
Revenue by	:	Md. A H Chowdhury, CIT(DR)

Date of hearing	:	20.01.2026
Date of Pronouncement	:	04.02.2026

ORDER

PER LAXMI PRASAD SAHU, ACCOUNTANT MEMBER

This is an appeal filed by the Revenue against the order 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)] dated 04.09.2025, DIN & order No. ITBA/NFAC/S/250/2025-26/1080344396(1) on the following grounds:

“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 5,39,21,767/-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.”

2. Briefly stated the facts of the case are that the assessee did not file his regular return of income as required u/s 139(1) of the Act. Accordingly, reassessment proceedings were initiated after obtaining necessary approval from the competent authority and passing of order u/s 148A(d) of the Act and issued notice on 27.03.2023. In response to notice, assessee filed his return of income declaring total income of Rs. 3,10,650/-. Reassessment proceeding was initiated on the basis of information available with the income tax department that the assessee has made cash withdrawals amounting to Rs. 8,07,00,000/- from State Bank of India A/c No. 36000952124 and contractual receipt of Rs. 1,90,564/-the assessee file part reply in response to the notices issued u/s 142(1) of the Act the assessee furnished reply on 23.09.2023, 04.10.2023, 21.10.2023 and 11.01.2024. The reply of the assessee was considered and issued show cause notice on 10.02.2024 but no further information was furnished by the assessee. During the course of reassessment proceeding, it was submitted by the assessee that he is engaged in running a SBI Customer Service Point (CSP) have Code IA900078, the link branch of customer service point is SBI Branch Kateya (02961). This engagement is governed by the agreement entered with Vedavaag System Ltd. agreement dated 26.12.2018 between Vedavaag System Ltd. and the assessee.

3. The AO issued notice u/s 133(6) of the Act dated 26.10.2023 to Vedavaag System Ltd. for confirmation in response to this notice reply was received from Vedavaag System Ltd. on 28.10.2023 in which

Vedavaag System Ltd. had provided the agreement (CSP) dated 29.12.2018 between Vedavaag System Ltd. and the assessee. It was noted that the assessee made cash withdrawal of Rs. 8,07,00,000/- from SBI from the aforesaid account number. During the course of reassessment proceedings, the assessee was provided ample opportunities to explain the cash withdrawals. From the agreement, it was found that the agreement was made on 26.12.2018 between Vedavaag System Ltd. and the assessee. On verification of SBI account, the assessee made cash withdrawal amounting to Rs. 2,67,70,233/- after agreement dated 26.12.2018 were allowed and a difference of Rs. 5,39,21,767/- (Rs. 8,07,00,000/- less Rs. 2,67,78,233/-) remains unexplained (cash withdrawals) on the part of the assessee. Therefore, in the absence of any admissible submission or evidences from the assessee side, the said difference of cash withdrawals noted above, but were treated as unexplained cash withdrawal as per section 69C of the Act and the AO applied section 115BBE and completed reassessment on 28.02.2024.

4. Aggrieved from the above order, the assessee filed appeal before the Ld. CIT(A). During the appellate proceeding detailed written submissions were filed. The Ld.CIT(A) after considering the entire submissions noted in para-No. 6.3 to 6.5 are as under:

“6.3 I have carefully considered the facts and evidences on record. The appellant during the course of appeal proceedings has submitted that he is engaged being a CSP operator of SBI. who on behalf of State Bank of India, providing banking facility to the customers of SBI residing in remotest area of Gopalganj district, where there is no banking access readily available. The SBI appointed M/s VEDVAAG SYSTEM LIMITED, Manikunj Apartment, house No. 1/100, Road No.21, Sri Krishana Nagar, Patna -800001 as flagship operator. On 16.08.2016, VEDVAAG SYSTEM LIMITED entered into contractual agreement with appellant, having got registered the appellant as CSP operator by providing code 1A900078. Since 16.08.2016 the appellant, without any interruption, was working as CSP operator under M/s VEDVAAG SYSTEM LIMITED in Baikunthpur, District Gopalganj. Thus, the appellant is functioning as banker on behalf of state Bank of India. It is seen that the deposit and

withdrawal transactions reflected in the state bank of India's bank account of the appellant bearing number 360009522124 has nothing to do with appellant. The entire deposit remitted by state bank of India in the account of appellant for disbursement to its customers as withdrawal from their bank account and vice versa deposit by customers in his account, is solely related to State Bank of India, since the appellant is performing his duty as banker on behalf State Bank of India.

6.4 It is seen that the appellant has maintained only one bank account of SBI bearing account number 360000952124. As per the copy of bank statement, the total actual withdrawal transaction is only Rs5,48,07,846 whereas the AO has calculated the same as Rs8,07,00,000. Therefore, the AO while calculating unexplained expenditure u/s 69C, has adopted wrong figure of unexplained expenditure.

6.5 In the letter received from M/s Vedavaag System Limited in response to notice u/s 133(6) of Act wherein the date of execution of agreement between appellant and flagship CSP M/s Vedavaag System Limited was, by inadvertent mistake, was informed 26.12.2018. It is seen that later on vide letter dated 20.02.2024, M/s Vedavaag System Limited issued letter of corrigendum, whereby, rectifying the date of execution of agreement M/s Vedaavag System Limited informed the correct date of execution of agreement 16.08.2016, in place of 26.12.2018. But, it is seen that the AO has missed this letter of corrigendum issued by flagship CSP operator. It may be noted that the AO has accepted the sources of expenditure to extent of Rs2,67,78,233 as explained and genuine and the balance amount treated as unexplained, whereas the sources of balance amount is same as that of Rs 2,67,78,233 which has been accepted as explained and genuine

Accordingly, he allowed the appeal of the assessee.

6. Aggrieved from the above order, the Revenue filed appeal before the ITAT.

7. The Ld. DR relied on the order of the AO and submitted that the Ld. CIT(A) has accepted the additional evidences which is violation of Rule 46A of the Income Tax Rules, 1962 and he did not give opportunity to the AO. He could have got remand report from the AO and merely accepted the corrigendum issued by the flagship CSP Operator and requested that the AO should have been given a chance. The ld. CIT (A) has not made independent enquiry on the documents submitted and no

opportunity was provided to the AO and he requested that the AO should have been given opportunity.

8. On the other hand, the Ld AR of the assessee counsel relied on the order of CIT(A) and submitted that during appellate proceedings no new evidence was produced a copy of agreement was produced which was also produced during the course of reassessment proceeding. The assessee is providing a banking facility in the remote area, in lieu of services rendered he is getting commission to which the assessee offered as income. Therefore, the provision of section 69C of the Act does not apply it is just a facilitation centre for the customer service on behalf of bank and Vedavaag System Ltd. and requested that the order of Ld. CIT(A) should be confirmed.

9. Considering the rival submissions and perusing the entire material available on record and the orders of authorities below. We noted that the assessee has withdrawn cash from his account number noted supra from the SBI of Rs. 8,07,00,000/- and as per the agreement made between Vedavaag System Ltd. and the assessee dated 26.12.2018, the assessee is providing services as per the agreement, there is a cash withdrawal of Rs. 2.68 Crores which has been allowed by the AO out of the total withdrawal. During the appellate proceedings, the assessee furnished the corrigendum and the Ld. CIT(A) noted that the total transaction is only Rs. 5,48,07,846/-. We noted that there is no opportunity given by the Ld. CIT(A) to AO and he has allowed as per his finding at para 6.3, 6.4 and 6.5. We found substance in the argument of the Ld. DR. Therefore, considering the facts of the case and in the interests of justice, we are remitting this issue back to the file of Ld. CIT(A) for fresh consideration after giving reasonable opportunity of being heard to the assessee and decide the issue as per law. The assessee is directed to substantiate his case with cogent documents in support of

his claim and not seek unnecessary adjournments for early disposal of the case. In case of failure, no second leniency shall be granted to the assessee.

10. In the result, appeal of the Revenue is allowed for statistical purposes.

Order pronounced on 04.02.2026

Sd/-
(Duvvuru RL Reddy)
Vice President

Sd/-
(Laxmi Prasad Sahu)
Accountant Member

Dated: 04.02.2026

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