

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

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

ITA No. 501/PAT/2025
Assessment Year : 2016-17

Harsh Deep Burman, Lal Chowk, Nawada, Bihar, Nawada - 805110 [PAN: ANYPB5760H]	Vs.	AC/DC, Circle Two, Patna - 800001
APPELLANT		RESPONDENT

Assessee by	:	Shri Vimlesh Kumar, Adv.
Revenue by	:	Sh. Manab Adak, JCIT

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 assessee against the order passed u/s 250 of the Income Tax Act, 1961 (hereafter “the Act”) by the Ld. Additional/Joint Commissioner of Income Tax (Appeals), [hereafter “the Ld. JCIT(A)] dated 14.08.2025, DIN & order No. ITBA/APL/S/250/2025-26/1079613738(1) on the following grounds:

“1. The Ld. CIT(A) erred in law and on facts in confirming the addition of 710,00,000/- made u/s 69 towards alleged unexplained investment in purchase of land, ignoring appellant's retraction and evidences.

2 The Ld. CIT(A) erred in confirming the addition of Rs.15,00,000/- u/s 69 towards alleged unexplained construction, without appreciating that such

investment was made by family members and reflected in their ITRs and books.

3. The Ld. CIT(A) erred in relying solely on the statement recorded u/s 133A, which has no evidentiary value without corroborative material, contrary to settled law (Paul Mathews & Sons v. CIT [263 ITR 101 (Ker)], CIT v. M.P. Scrap Traders [2015] 60 taxmann.com 205 (Guj)).

4. The Ld. CIT(A) failed to consider CBDT Circulars No. 286/2/2003-IT(Inv.) dated 10.03.2003 and 286/98/2013-IT(Inv.II) dated 18.12.2014 prohibiting confessional statements under coercion.

5. The order passed by the authorities below is bad in law, contrary to facts, and violative.”

2. Briefly stated the facts of the case are that the assessee is an individual and engaged in the business of jewellers in proprietorship concern. The assessee filed his return of income u/s 139(1) of the Act on 29.08.2016 declaring an income of Rs. 22,69,320/-. The case was selected for complete scrutiny as per CBDT guidelines that a survey was conducted u/s 133A of the Act at the business premises of the assessee on 14.10.2015 during the financial year 2015-16 relevant to AY 2016-17. Accordingly, notice u/s 143(2) of the Act dated 31.07.2017 was duly served to the assessee and subsequently, other statutory notices were issued to the assessee. The assessee was asked to furnish reply and the assessee furnished the reply. Show cause notice was also issued to the assessee dated 19.11.2018. During the course of survey proceedings, the assessee admitted Rs. 25,00,000/- as undisclosed income towards investment in land and building and during the course of assessment proceedings the assessee made submissions regarding investment in land and building that the statement made during survey was given under due pressure and signed their statement as drafted by the investigating officers, the agreement for purchase of land was jointly made by the Mr. Harshdeep Burman, Nitu Kumari and Asha Devi and the same is reflected in their respective returns filed. The investments were made jointly as the same is in the name of Asha Devi so investment by the assessee does not arise only. The above submission of the

assessee was not accepted by the AO and noted that these submissions are afterthought. He further observed that the assessee is not objected before the authority, who was taken the statement u/s 133(A) of the Act and he relied on the judgement of Hon'ble Delhi High Court in the case of Airport Authority of India Vs. CBEC (Del) 207 CTR 196, wherein the Hon'ble Delhi High Court held that for retraction to be valid threat or coercion has to be proved but hear in the case the assessee has not proved in light of the judgement cited supra, the AO further noted that the payment of Rs. 10 lacs has not been paid by Nitu Kumari and Asha Devi from their respective bank account. During the course of deposition, Mr. Harshdeep Burman simply accepted that the money advance for the land is actual his undisclosed income. The judicial pronouncement held by the Hon'ble High Court as the case of Hira Singh and Co. Vs. CIT(HP) 230 ITR 791, wherein the Hon'ble High Court held that addition made on the basis of admission by the assessee is justified. He further noted that the assessee is engaged in the business of jewellery and most of the transactions are routed through cash and the assessee is unable to prove the source of money for investment in land and building. The assessee failed to substantiate the payment has been made through any banking channel out of credential sources and he applied section 69 of the Act and made addition of Rs. 25,00,000/-.

3. Aggrieved from the above order, the assessee filed appeal before the Ld. CIT(A) and furnished the reply it was stated that the land was purchased in joint name and the construction was funded by his mother but the assessee was unable to produce any reliable documents are conclusive prove of their funding and the AO has also noted that the investment in land has not been routed through bank account. The burden of proof u/s 69 is squarely lies on the assessee to satisfactorily explanation for the source of investments. Mere assertion without

corroborative evidence do not discharge the assessee's onus. Accordingly, he upheld the order of the AO.

4. Aggrieved from the above order, the assessee filed appeal before the ITAT.

5. The Ld. counsel reiterated the submissions made before the lower authorities and submitted that the land was purchased in the joint name and construction was funded by the assessee's mother, therefore, the source of investment in the land and building was proved. However, both the Ld. authorities have not accepted the documents submitted and he further submitted that the documents are lying with the assessee if one more chance is given to the assessee the assessee will be able to prove the conditions prescribed in section 69 of the Act and he further submitted that during the course of survey the assessee was under pressure and the authorities forcefully got signed on the statement recorded.

6. On the other hand, the Ld. DR relied on the order of lower authorities and submitted that during the course of proceedings before the authorities below, the assessee was unable to prove the source of investment with cogent documentary evidences or conclusive prove for investment. He also unable to prove the source of funds for construction made for building as submitted during the appellate proceedings and he strongly submitted if the statement were taken from the assessee during the course of survey u/s 133A of the Act forcefully then he could have raised complaint before the superior authority but he did not do so. Thereafter submission made are afterthought which cannot be relied later.

7. Considering the rival submissions and perusing the entire material available on record and orders of authorities below. We noted that survey

was conducted in the business premises of the assessee and declaration was made by the assessee towards investment in land and building as undisclosed income for the year under consideration. During the course of assessment proceedings, the assessee has submitted with the investments were made in the joint name of the three persons but the relevant documents and source of investment could not be furnished. Even before us, the assessee/Ld. counsel has not furnished any documentary evidences as contested before the authorities below the assessee is also unable to submit to prove the investment in buildings with conclusive evidence as submitted during the first appellate proceedings. Regarding the statements if the assessee had grievance regarding statements as submitted that a survey authorities obtained forcefully and got declaration as undisclosed income is also baseless. He could have made complaint after the conclusion of survey u/s 133(A) of the Act before the superior authorities but the assessee did not do so. Accordingly, as per our observations and submission noted supra, we dismiss the appeal of the assessee.

8. In the result, appeal of the assessee is dismissed.

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