

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE

BEFORE SHRI B.M. BIYANI, ACCOUNTANT MEMBER
AND
SHRI PARESH M. JOSHI, JUDICIAL MEMBER

ITA No.315/Ind/2025
Assessment Year:2016-17

Preetam Jaiswal, 138, Prime City, Veena Nagar NX, Indore (Assessee/Appellant)	<u>बनाम/</u> Vs.	ITO Jhabua (Revenue/Respondent)
PAN:ACVPJ7560P		
Assessee by	Shri Arpit Gaur, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	29.01.2026	
Date of Pronouncement	06.02.2026	

आदेश / O R D E R

Per B.M. Biyani, A.M.:

Feeling aggrieved by order of first-appeal bearing DIN: ITBA/NFAC/S/250/2024-25/1071816101(1) dated 02.01.2025 passed by learned Commissioner of Income-Tax (Appeals)-NFAC, Delhi ["CIT(A)"] which in turn arises out of assessment-order dated 24.12.2018 passed by learned ITO, Jhabua ["AO"] u/s 143(3) of Income-tax Act, 1961 ["the Act"] for Assessment-Year ["AY"] 2016-17, the assessee has filed this appeal on following grounds:

SHRI PREETAM JAISWAL

138, Prime City, Veena Nagar NX, Indore - 452001

GROUNDS OF APPEAL

Grounds of Income-Tax appeal before the Hon'ble Income-Tax Appellate Tribunal, Indore Bench, Indore, against the Appellate Order passed under s. 250/143(3) of the Income-Tax Act, 1961 by the learned Commissioner of Income-Tax (Appeals), National Faceless Appeal Centre, Delhi, pertaining to the A.Y. 2016-17 in response to the appeal filed against the Assessment Order under s. 143(3) of the Act, passed by the Income-Tax Officer, Jhabua.

1. That, the learned CIT(A) grossly erred, both on facts and in law, in passing the ex-parte order without giving proper and effective opportunity of being heard to the appellant.
2. That, without prejudice to the above, the learned CIT(A) grossly erred in not adjudicating the appeal on merits of the case.
3. That, without prejudice to the above, the learned CIT(A) grossly erred, both on facts and in law, in confirming the action of the AO for determining the income of the appellant at Rs.95,03,391/- for the relevant assessment year as against the returned income of Rs.14,60,790/- thereby making additions of Rs.80,42,601/- by framing an Assessment Order under s.143(3) of the Income-Tax Act, 1961, which is quite unjustified, unwarranted, arbitrary, bad-in-law and void-ab-initio.
4. That, without prejudice to the above, the learned CIT(A) grossly erred, both on facts and in law, in confirming the action of the AO for rejecting the books of account of the appellant under s.145(3) of the Income-Tax Act, 1961 without specifying any defect or deficiency either in the books of account or the method of accounting employed by the appellant.

P. Jaiswal

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5. That, without prejudice to the above, the learned CIT(A) grossly erred, both on facts and in law, in upholding the addition of Rs.79,09,071/- in the appellant's income on account of estimation of net profit @ 3.50 percent of turnover, merely on guess work and surmises, without considering the material fact that the appellant had maintained regular books of account in his ordinary course of business, which were also subjected to audit by a firm of qualified chartered accountants.
6. That, without prejudice to the above, the learned CIT(A) grossly erred, both on facts and in law, in upholding the estimation of the net profit @3.50 percent of the turnover made by the AO which is quite excessive.
7. That, without prejudice to the above, the learned CIT(A) grossly erred, both on facts and in law, in upholding the addition of Rs.1,33,530/- in the appellant's income by disallowing the transfer expenses, genuinely incurred by the appellant, on account of payment of brokerage towards sale of one property.
8. That, the appellant further craves leave to add, alter or amend the foregoing ground of appeal as and when considered necessary.

PLACE : INDORE
DATED : MARCH 27TH, 2025



(APPELLANT)

2. Ld. AR for assessee submits that the CIT(A) has decided first-appeal *ex-parte* qua assessee for the reason that the assessee did not make any submission before him despite opportunities given. He further submits that the CIT(A) has simply confirmed the order passed by AO and thereby upheld the additions but the grounds/issues raised by assessee in first appeal requires an apt adjudication by CIT(A) on merit in accordance with provisions of 250(6) of the Act which provides "The order of the

Commissioner (Appeals) disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reason for the decision.". Referring to Para 4.1 of impugned order, Ld. AR demonstrates that the CIT(A) has given four opportunities on 29.01.2021, 10.08.2022, 17.08.2022 and 23.08.2022. The assessee filed adjournment request against hearing fixed on 23.08.2022 which the CIT(A) granted. But thereafter the CIT(A) fixed next hearing after two years' period on 13.12.2024 which the assessee missed to attend. Therefore, there occurred non-representation before CIT(A). Ld. AR acknowledges that the assessee is ready and willing to make a proper representation before CIT(A) if an opportunity is given and prays that the present matter should be remanded to CIT(A) for an apt adjudication.

3. Ld. DR for revenue agrees with the prayer of Ld. AR but makes a request to direct the assessee to represent his case before CIT(A) and do not seek unnecessary adjournments.

4. In view of above submissions of parties; having regard to the principle of natural justice and also bearing in mind that no prejudice would be caused to revenue if the present matter is restored at the level of CIT(A), we remand this matter back to the file of CIT(A) for adjudication afresh, at the risk and responsibility of assessee. The CIT(A) shall give necessary opportunity of hearing to assessee and pass an appropriate order uninfluenced by his earlier order. The assessee is also directed to remain vigilant and ensure participation in the hearings as may be fixed by CIT(A)

and do not seek unnecessary adjournments failing which the CIT(A) shall be at liberty to pass appropriate order in accordance with law. Ordered accordingly.

5. Resultantly, this appeal is allowed for statistical purpose.

Order pronounced in open court on 06.02.2026.

Sd/-

(PARESH M. JOSHI)
JUDICIAL MEMBER

Sd/-

(B.M. BIYANI)
ACCOUNTANT MEMBER

Indore

दिनांक /Dated : 06.02.2026.
Patel/Sr. PS

Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

By order
Senior Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore