

**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(s): 444/PAT/2024
Assessment Year(s): 2019-20**

DCIT, Central Circle-1, Patna	Vs.	Parth Ashram Edu Services Pvt. Ltd.
(Appellant)		(Respondent)
PAN: AAHCA0798H		

Appearances:

Assessee represented by : None.

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

Date of concluding the hearing : 07-January-2026

Date of pronouncing the order : 19-February-2026

ORDER

PER RAKESH MISHRA, ACCOUNTANT MEMBER:

This appeal filed by the Revenue is against the order of the Commissioner of Income Tax (Appeals)- 3, Patna [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 2019-20 dated 29.03.2024.

1.1 The Registry has pointed out that the appeal filed by the Revenue is time barred by 6 days. The appeal was filed on 03.06.2024. The appeal order in this case was passed on 29.03.2024. However, as per the limitation certificate and the acknowledgement report of the e-filing of the appeal before the Tribunal, the date of the service of the order appealed against is mentioned as 09.04.2024, therefore, the appeal filed on 03.06.2024 is not delayed and is filed within the time limit.

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



“1. That on the facts and in the circumstances of the case and in law, the Ld. CIT(A)-3, Patna erred in restricting the addition of Rs.3,77,55,048/- to Rs. 2,31,69,800/- holding that the assessee is liable to get the benefit of the expenditure of Rs. 1,45,85,248/- recorded in the impounded material.

2. That on the facts and in the circumstances of the case and in law, the Ld. CIT(A)-3, Patna failed to appreciate that the assessee failed to prove that the expenditure of Rs. 1,45,85,248/- recorded in the impounded material was over and above the expenses already claimed in the audited P & L Account.

3. That on the facts and in the circumstances of the case and in law, Ld. CIT(A) failed to even call for the explanation of the assessee as to whether the expenditure of Rs. 1,45,85,248/- were part of the expenses already claimed in the P&L Account or not.

4. That the order of the Ld. CIT (A) being erroneous in law and on facts to be vacated and the order/ notice of the A.O. be restored.

5. That the applicant craves leave to add, alter, delete, and modify the grounds of appeal before the Hon'ble ITAT.”

3. Brief facts of the case are that the assessee is a company engaged in coaching institute and had filed the return of income showing total income of ₹4,45,030/- which was processed u/s 143(1) of the Act and selected for compulsory scrutiny consequent to the survey u/s 133A of the Act carried out on 20.02.2019. Statutory notices were issued and the books of account impounded were examined and after considering the submission and impounded documents at the statement recorded at the time of the survey, the assessment was made on the total income of ₹3,82,00,078/- after making an addition of ₹3,77,55,048/- as the gross receipt as per physical verification during the survey u/s 133A of the Act were found to be ₹11,68,87,347/- while the same had been shown in the return of income at ₹7,91,32,299/- and the difference of ₹3,77,55,048/- was added to the income of the assessee. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. CIT(A) and also claimed the expenditure recorded in the impounded documents. The Ld. CIT(A) accordingly restricted the addition to ₹2,31,69,800/- by giving his finding as under:



“There is no dispute on the fact that the difference of Rs. 3,77,55,048/- was observed in the gross receipts of the appellant. The Ld. AR has contended that the AO has accepted the income part of the impounded material and rejected the expenditure part of the same. The Ld. AR has also referred to the provisions of section 292C and 132(4A) and submitted that any documents seized/impounded from the possession of the appellant cannot be treated partly true and partly false. Only the income part of the unaccounted receipt should be taxed in the hands of the appellant. I have carefully considered the entire facts of this case and the submissions of the Ld. AR. Admittedly, the documents related to the expenditure of Rs. 1,45,85,248/- were also found during the course of survey and were part of impounded material. The issue of undisclosed receipts was found from the same impounded documents. Accordingly, the appellant is liable to get the benefit of the expenditure recorded in the impounded material. The AO cannot be at will to accept the income part of the impounded material and reject the expenditure recorded therein. However, the findings of the AO, regarding the expenses claimed as per emails, are clear. There is no dispute that the appellant could not produce any bills/vouchers in support of the claim of expenditures. Further, the expenditures claimed by the appellant are without any TDS which was mandated as per the provisions of the Act. The emails were not the part of the seized materials but presented later at the time of assessment proceedings. If the emails were present with the director of the appellant company at the time of survey, why the same were not presented before the survey team. Also, the Ld. AR has failed to explain how the expenses mentioned in the emails are different from the expenses claimed in the books of the appellant. The director of the company had himself disclosures on account of difference in gross receipts. Although, the same has been challenged relying on the decision of S. Kader Khan Son vs CIT reported in 300 ITR 157 wherein it has been held that the statement u/s 133A does not amount to disclosure unless backed by the evidence but the same is not available to the appellant as the disclosure made by the director of the appellant company is backed by the several incriminating evidence impounded during the course of survey proceedings.

In view of the aforesaid discussion, the addition is restricted to Rs. 2,31,69,800/- and the grounds taken in this regard are partly allowed.

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

4. Aggrieved with the order of the Ld. CIT(A), the Revenue 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. It was submitted before us that the assessee had sent some emails from his own account which were treated as bogus. However, expenditure of about ₹1.5 Crore was allowed as a deduction. Our attention was drawn to page 4 of the appeal order which is the statement of the Director and he has given the bifurcation of the disclosure made for the three years.

6. We have considered the facts of the case, the submissions made and the documents filed. Ground No. 1 relates to the allowance of expenditure of ₹ 1,45,85,248/- recorded in the impounded material and Ground Nos. 2 and 3 relate to the same relating to being over and above the expenses already claimed in the audited profit and loss account and the Ld. CIT(A) failing to call for the explanation of the assessee as to whether the expenditure of ₹1,45,85,248/- was part of the expenses already claimed in the profit and loss account or not. No such details were filed by the assessee before us as well. Therefore, as considered by the Bench, in the interest of justice and fair play, we set aside the order of the Ld. CIT(A) and remand the issue to the Ld. AO to examine the impounded material vis-a-vis the expenses claimed in the return of income. Since the addition was made on the basis of impounded material and gross receipts were added, there is no justification for not allowing the excess expenditure which has been recorded with the impounded material. The Ld. AO is directed to act accordingly and in case the expenditure is recorded in the impounded material, allow the same as per law as the Ld. CIT(A) does not appear to have granted an opportunity of being heard to the Ld. AO while deciding the appeal.

7. We may be clarify that the expenditure in the excel sheets attached with the emails for April, May, June, October, November, 2018



and worked out at ₹2,31,69,800/- was not allowed by the Ld. CIT(A) and only the expenditure as per the impounded material of ₹1,45,85,248/- was considered. The Ld. AO shall compare the expenditure in the impounded material vis-a-vis the expenditure claimed in the books of account and allow the excess expenditure as per law since the excess receipts are also being added and there is no justification for adding the gross excess receipts only without allowing further expenditure debited as the evidence has to be considered as a whole.

8. In the result, the appeal filed by the Revenue is partly allowed for statistical purposes.

Order pronounced in the open Court on 19th February, 2026.

Sd/-

[Sonjoy Sarma]
Judicial Member

Sd/-

[Rakesh Mishra]
Accountant Member

Dated: 19.02.2026

Bidhan (Sr. P.S.)



Copy of the order forwarded to:

1. **DCIT, Central Circle-1, Patna.**
2. **Parth Ashram Edu Services Pvt. Ltd., Sai Complex Locus Organic Academy Bazar Samiti, Patna, Bihar, 800006.**
3. CIT(A)-3, Patna.
4. CIT-
5. CIT(DR), Patna Benches, Patna.
6. Guard File.

// True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata