

**IN THE INCOME TAX APPELLATE TRIBUNAL
PATNA 'SMC' BENCH AT KOLKATA**

[Virtual Court]

Before

**SHRI SONJOY SARMA, JUDICIAL MEMBER
&
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**ITA No(s).: 19/PAT/2025
Assessment Year(s): 2016-17**

Kamla Devi Jaydayal Jain Private Limited (Appellant)	Vs.	ACIT, Central Circle, Muzaffarpur (Respondent)
PAN: AAECK0593R		

Appearances:

Assessee represented by : None.

Department represented by : Ashwani Kr. Singal, JCIT.

Date of concluding the hearing : 08-January-2026

Date of pronouncing the order : 24-February-2026

ORDER

PER RAKESH MISHRA, ACCOUNTANT MEMBER:

This appeal filed by the Assessee 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 2016-17 dated 28.10.2024.

1.1 The Registry has informed that the appeal is barred by limitation by 15 days. The assessee has filed a petition for condonation of delay explaining the reasons that assessee is of old age and was not well during the relevant period and due to medical treatment and health issues, the appellate order and its consequences were inadvertently overlooked by the assessee. The assessee requested the Bench to condone the delay. After perusing the same, we are satisfied that the assessee had a reasonable and sufficient cause and was prevented from



filing the instant appeal within the statutory time limit. We, therefore, condone the delay and admit the appeal for adjudication.

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

“1. For that the order of assessment passed by the Ld. CIT(Appeals), Patna is bad in the law and fact.

2. For that disallowance of expense amounting to Rs. 4,16,006 on estimate basis is incorrect and illogical.

3. For that the Ld. CIT(Appeals) had partly allowed the appeal by restricting the disallowance to 10% of such expenses.

4. For that the Ld. CIT(Appeals) had ignored the fact that the AO had no valid grounds for disallowing such expenses and was purely based on estimation basis.

5. For that the Ld. CIT(Appeals) did not appreciate the fact that AO has simply relied on the report given by the investigation wing without conducting any independent verification of the matter.

6. For that the AO had himself accepted the entire expenditure for all previous years and did not make any adverse opinion for AY 2010-11 to AY 2014-15, whereas he made the addition for AY 2015-16 and 2016-17 based on the report of investigation wing without any cogent basis.

7. Similarly the LD CIT(A) deleted the addition made by the assessing officer for the year 2015-16 but restricted the addition to 10% for AY 2016-17. In spite for the fact that both the addition were based on same grounds.

8. For that the disallowance of 10% of such expenses by CIT (Appeals) is made purely on estimated basis and lacks sufficient justification.

9. For that the Ld. AO has erred both on facts and in law in making disallowance of expenditure without pointing out specific expenditure not eligible for deduction.

10. For that disallowance by Ld. CIT(A) on mere suspicion ignoring the audited books of accounts as certified by the tax auditor.

11. For that Ld. CIT(A) as well as AO had not bought on record any cogent basis as to why this expenditure was to be disallowed.

12. For that the addition made by the Learned Assessing Officer, as partly upheld by the Ld. CIT(Appeals), is based on surmises, conjectures, and assumptions, and thus, should be deleted in its entirety.



13. For that other ground if any, will be urged at the time of hearing of case.”

3. Brief facts of the case are that a search u/s 132(1) of the Act was carried out in the residential and business premises of Dr. Ram Gopal Jain on 12.08.2015. Dr. Ram Gopal Jain and his son Shri Deepak Kumar Jain had formed a company named M/s. Kamla Devi Jaidayal Jain Hospital Pvt. Ltd. at Muzaffarpur. The directors of the company were Dr. Ram Gopal Jain, Dr. Deepak Kumar Jain, Smt. Kusum Jain and Shri Prakash Jain. On perusal of material available on record and accounts of the assessee, the Assessing Officer (hereinafter referred to as Ld. 'AO') found that the assessee claimed total expenses to the tune of ₹64,81,207/- which was almost 89% of its revenue of ₹72,64,610/- for the relevant assessment year and during the course of the search proceedings, the assessee also admitted to have made inflated expenditure in respect of the assessment year under consideration. Further, the Ld. AO observed that almost 90% of the total revenue had been booked in respect of total expenses claimed by the assessee which was unrealistic as well as unreasonable. During the course of the assessment proceedings, the assessee failed to provide any evidence in respect of substantiating its claim of expenses as justified and claimed correctly. Considering the nature of income of the assessee as well as findings in the search and consequent admission of the assessee about inflated expenditure for the relevant assessment year, the Ld. AO added 50% of the expenses claimed by the assessee as inflated expenses, which is ₹20,80,028/-, to the total income of the assessee during the year under consideration. The Ld. AO passed the assessment order u/s 143(3) of the Act determining the total income at ₹30,00,238/- after making addition of ₹20,80,028/- on account of disallowance of expenses. Aggrieved with the assessment order, the assessee filed an



appeal before the Ld. CIT(A) who restricted the disallowance to 10% of the claim and partly allowed the appeal.

4. Aggrieved with the order of the Ld. CIT(A), the Assessee 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. The assessee had filed a written submission earlier, which is as under:

“1. That the appellant is a Private Limited company running a nursing home under the name and style of M/s Kamla Devi Jaidayal Jain Hospital Private Limited. The Hospital runs under the supervision of Dr. Ram Gopal Jain and his family members. Consequent to search at the residential and business premises of Dr. Ram Gopal Jain on 12-08-2015 various findings were done by the investigating team on the basis of those finding the assessment was concluded by the Ld. AO.

2. That the Ld. AO. made the aforesaid addition of Rs 20,80,028/- on estimate basis on the grounds of inflated expenditure based on estimation in absence of any impounded material seized at the time of search.

3. That the addition of the LD AO was restricted to 10% of the total expenditure of Rs 41,60,056/- which comes to 4,16,006/-. That the LD CIT(A) has also not given any reasoning based on which the addition is restricted to 10%. The relevant portion of the order of CIT(A) is reproduced here for your kind consideration.

In view of the above foregoing discussion, it is noticed that 50% disallowance purely on estimation cannot be upheld. In my considered view it would be reasonable to restrict disallowance to the extent of 10% of the total expenditure of Rs.41,60,056/-which comes to Rs.4,16,006/- Thus, a disallowance of Rs.4,16,006/- is confirmed and the assessee gets a relief of Rs.16,64,022/- (Rs.20,80,028 - Rs.4,16,006) on these accounts. With these observations, the above raised grounds are hereby partly allowed.

4. That the Ld. AO has himself concluded the assessment u/s 153A of A/Y 2013-14 and A/Y 2014-15 and accepted the returned income, in spite of the fact that, the revenue and expenditure of both the year are quite similar to A/Y 16-17.

Again, the LD CIT(A) deleted the estimated addition of AY 2015-16 but restricted the addition to 10% for AY 16-17.

Therefore, it makes the assessment more surprising and vague on the ground that, the same income and expenditure is accepted in one year, whereas the same is disallowed on estimate basis in the succeeding year.

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7. A comparative chart of the expenses for last three years has been enclosed for your kind perusal.

<i>Comparative Chart for the last three Year</i>			
<i>Ass. Yr.</i>	<i>Turnover</i>	<i>Expenses Shown</i>	<i>Remarks</i>
EMPLOYEES BENEFIT EXPENSES			
2013-14	6,714,042.00	3,166,970.00	Accepted u/s 153 A
2014-15	7,219,261.00	3,698,466.00	Accepted u/s 153A
2015-16	7,380,127.00	3,265,761.00	Estimated disallowance @50% by A.O. deleted by CIT (A)
2016-17	72,44,610.00	32,88,000.00	Estimated disallowance @50% by A.O. restricted by CIT(A)@10%
OTHER EXPENSES			
2013-14	6,714,042.00	1,137,721.50	Accepted u/s 153 A
2014-15	7,219,261.00	1,174,462.01	Accepted u/s 153A
2015-16	7,380,127.00	1,071,500.18	Estimated disallowance @50% by A.O. deleted by CIT(A)
2016-17	72,44,610.00	9,65,144.15	Estimated disallowance @50% by A.O. restricted by CIT(A) @10%

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9. That it is not the case of the assessing officer that the aforesaid expenses have not been incurred. That the assessing officer is not alleging that the expenses are not incurred for business purposes. Keeping in view the nature of business of the appellant, these expenses are genuine business expenses incurred in regular course of business and cannot be doubted upon. The Assessing Officer and LD CIT (A) has failed to give cogent



reason for disallowing the aforesaid expenses as excessive. He has not brought on record any material/ evidence to show that expenses as claimed by the appellant is excessive. Looking at the quantum of the turnover of the appellant of over Rs. 72.44 lakh rupees, these expenses are quite reasonable and cannot be disallowed on surmise and conjectures.

10. It is humbly submitted that the appellant has produced the audited set of books of accounts in course of assessment proceedings. Ledger accounts of the expenses were also submitted to the Assessing Officer in course of assessment proceedings and the same were duly verified by him. The Assessing Officer has not found any infirmity in the books or ledgers, rather he has presumed that expenses are suspicious, the expenses have to be disallowed. This suspicion and presumption on the part of the Assessing officer is wholly erroneous and misconceived.

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12. That the appellant is maintaining regular books of accounts which are audited u/s 44AB and the audited books of accounts has neither been rejected nor has any adverse inference been drawn by the Assessing Officer in the assessment proceedings. That further it is not the case of the AO that there was any suppression of income and thus, the addition is made just on estimate basis and may kindly be deleted.

The assessee has relied upon the following judgments:

Hon'ble Apex Court in the case of SA Builders Vs CIT reported in 288 ITR 1 (SC)

P & H HC in case of CIT v. S.S.P. Pvt ltd reported in (2011) 202 Taxman 386

Patna bench of ITAT in the case of ITO, Ward: -5(1), Patna V. M/s. Rajendra Medical Agency vide ITA No. 502/Pat/04

Delhi 'B' bench of ITAT in the case of Shankar Trading Co. Pvt. Ltd. V. ACIT, Circle 8(1) reported in (2006) 152 Taxman 49 Del (Mag)

Hon'ble Apex Court in the case of Roop Singh Negi Vs. Punjab National Bank & Others reported in (2009) 2 SCC 570

18. Further it is hereby submitted that the LD AO has grossly erred in making the addition purely based on the statement recorded by the appellant. The LD AO has himself accepted the expenses for the FY 2012-13 and 13-14 where the appellant is having almost the same receipt and same expenses as shown in the FY 2014-15 and 2015-16. The entire expenses are totally in line with the earlier years. Copy of Audit Report of earlier year is also enclosed for your kind perusal. Therefore, the addition is



totally arbitrary, purely on estimation, without any cogent basis and based on random and hypothetical assumption.

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24. The Ld. AO. has simply relied on the report given by the investigation wing without conducting any independent verification of the matter. In absence of an independent inquiry the assessment of the LD AO based on statement on oath is inappropriate and liable to be quashed. Any assessment done on mechanical basis without application of mind is bad in law.

25. Hence restricting the addition to 10% of the expenses by the LD CIT(A) is inappropriate and fit to be deleted.

26. If the facts of the appellant's case are tested on the anvil of the aforesaid judgments, it is clear that the addition made by the Ld. AO and partly sustained by CIT(A) is wholly incorrect and is fit to be deleted."

6. We have considered the facts of the case, the submissions made and the documents filed. The Ld. CIT(A) has considered the issue and has allowed part relief. There was no mention in the written submission filed whether the statement made was retracted and the disallowances were made on the basis of statement in which it was claimed that the expenses were inflated for two years. Since the search and seizure took place on 12.08.2015 and therefore, this A.Y. 2016-17 was not the unabated assessment year on the date of the search as the return of income was yet to be filed; therefore, the assessment was to be made in the normal course and even in the absence of incriminating evidence, the disallowance could have been made if the facts so warranted. As regards the other assessment years 2013-14 and 2014-15, as the same were unabated assessment years on the date of the search, no disallowance could have been made in the absence of incriminating evidence being found. Further, for A.Y. 2016-17, the assessment was made u/s 144 of the Act and no further evidence has been filed before



us as to how the disallowance of 10% out of the expenses claimed, which is confirmed by the Ld. CIT(A), is not justified. Hence, in the absence of any further evidence, and as the disallowance was made in the report of the Investigation Wing, as is mentioned in the Grounds of appeal, there is no justification for interfering with the findings of the Ld. CIT(A) who has made a very reasonable disallowance on the facts of the case and which is hereby confirmed and all the grounds of appeal raised by the assessee are dismissed.

7. In the result, the appeal filed by the assessee is dismissed.

Order pronounced in the open Court on 24th February, 2026.

Sd/-

[Sonjoy Sarma]
Judicial Member

Sd/-

[Rakesh Mishra]
Accountant Member

Dated: 24.02.2026

Bidhan (Sr. P.S.)



Copy of the order forwarded to:

1. ***Kamla Devi Jaydayal Jain Private Limited, Daudpur Kothi, PO PS Brahmpura, Muzaffarpur, Bihar, 842003.***
2. ***ACIT, Central Circle, Muzaffarpur.***
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



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Assessment Year: 2016-17

Kamla Devi Jaydayal Jain Private Limited.
