

**IN THE INCOME TAX APPELLATE TRIBUNAL
GUWAHATI 'DB' BENCH AT KOLKATA**

[Virtual Court]

Before

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

**ITA No(s). 375, 376 & 377/GTY/2025
Assessment Year(s) 2013-14, 2017-18 & 2018-19**

Unteshwar Singh/ Unteswar Singh (Appellant)	Vs.	DCIT, Central Circle-2, Guwahati (Respondent)
PAN: AHDPS9645P		

Appearances:

Assessee represented by : Chandra Mohan Roy, CA.

Department represented by : Santosh Kr. Karnani, Addl. CIT.

Date of concluding the hearing : 24-February-2026

Date of pronouncing the order : 26-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)-Central NER, Guwahati [hereinafter referred to as Ld. 'CIT(A)'] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for AYs 2013-14, 2017-18 & 2018-19 dated 29.09.2024.

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

I. ITA No. 375/GTY/2025; AY 2013-14:

"1. That the addition of Rs.3.50 crores is unsustainable as no sum was credited in the books of accounts maintained and no enquiry whatsoever was carried out by the assessing officer.

2. That the addition of Rs.3.50 crores is unsustainable as the appellant is not the owner of the said money and the money has been consequently withdrawn from bank.



3. That the estimation of income is arbitrary in the absence of any past assessment history or comparable in similar line of business.
4. That the estimation of income leads to double addition which is bound to be deleted.
5. That the appellant craves leave to add/alter/delete/amend/substitute any/or grounds/documents at the time of final hearing.”

II. ITA No. 376/GTY/2025; AY 2017-18:

- “1. That the assessment is bad in law since the notice under Section 148 dated 24/02/2020 was issued by ITO WBYRNIHAT who is clearly not authorised to do so in view of the CBDTs order No. 08 of 2020 dated 03.01.2020 where the PAN of the appellant was centralized with this charge vide order u/s 127 of the Income Tax Act, 1961 dated 28.09.2020 passed by the Pr. Commissioner of Income Tax, Shillong.
2. The without prejudice to above the assessment is bad in law in the absence of issue of notice u/s 143(2).
3. That without prejudice to above the sum of Rs. 18,83,500/- added is already disclosed as part of turnover in the return filed and there is no necessity of disclosing the same once again and the statement given has been misconstrued and not taken to the logical conclusion.
4. That the addition of interest and commission income is bad in law since the same has already been disclosed in the return of income.
5. That the benefit of taxes paid has not been granted to the appellant while computing demand payable.
6. That the appellant craves leave to add/alter/delete/amend/substitute any/or grounds/documents at the time of final hearing.”

III. ITA No. 377/GTY/2025; AY 2018-19:

- “1. That the addition of gift as income under the head undisclosed money is unsustainable as gift from relative is exempt income.
2. That the benefit of taxes paid has not been granted to the appellant while computing demand payable.
3. That the appellant craves leave to add/alter/delete/amend/substitute any/or grounds/documents at the time of final hearing.”

2.1 Since the issues are common, all the three appeals were heard together and are being decided vide this common order for the sake of



convenience and brevity. We shall first take up ITA No. 375/GTY/2025 for AY 2013-14.

3. Brief facts of the case are that the Revenue was in possession of the information that during the FY 2012-13, the assessee had made huge transactions in the bank account maintained with Indian bank, Nongpoh Branch. On going through the bank account, the Assessing Officer (hereinafter referred to as Ld. 'AO') found that excluding the transactions of credit of ₹3.50 Crore and debit of ₹3.30 Crore, there was total credit (cash or otherwise) of ₹2,14,59,496 in that current account. It was further observed by the Ld. AO that the assessee had not filed his original return of income for the AY 2013-14. As such notice u/s 148 of the Act was issued to the assessee on 24.02.2020 for the AY 2016-17. Subsequently, in view of the CBDT's order No. 08 of 2020 dated 03.01.2020 the PAN of the assessee company was centralized with his charge vide order u/s 127 of the Act dated 28.09.2020 passed by the Pr. Commissioner of Income Tax, Shillong. In compliance to the notice u/s 148 of the Act, no valid return of income for the assessment year 2013-14 was filed. Thereafter, notices u/s 142(1) of the Act were issued to the assessee but the same were not complied with. Since the assessee did not comply with any of the notices issued and not even filed his return of income for the AY 2013-14, therefore, in absence of any explanation, the sum of ₹2,14,59,496/- was treated as business turnover of the assessee for the period under consideration and a sum of ₹17,16,760/- [8% of ₹2,14,59,496/-] was treated as business income of the assessee and the Ld. AO assessed the total income of the assessee u/s 147 r.w.s 144 of the Act as per computation of income. Aggrieved with the assessment order, the



assessee filed an appeal before the Ld. CIT(A) who vide order dated 29.09.2024 dismissed the appeal of the assessee by holding as under:

“7.2. Decision on Ground(s) of Appeal No(s). 1:

7.2.1. The Appellant contended that the addition of Rs.3,50,00,000/- was not sustainable since no sum was credited in his Books of account. It is observed that the AO issued several notices but there was no compliance on the part of the Appellant. The AO proceeded to add the impugned amount to the income as per the provisions of Section 68 of the Act.

7.2.2. During the appellate proceedings, several notices were issued by this office, which were duly served on the Appellant. Notices u/s 250 of the IT Act were issued on 04/09/2023, 04/01/2024, 29/05/2024, 05/07/2024 & 12/09/2024. There was no compliance to any of these notices.

*The conduct of the Appellant, as inferred from aforesaid para, evidences that the Appellant is not interested in prosecuting the Appeal. The law aids those who are vigilant, not those who sleep upon their rights. This principle is embodied in the well-known latin dictum, *vigilantibus non dormientibus jura subveniunt*. The conduct of the Appellant, as inferred from the aforesaid table, evidences that the Appellant fails on this principle of equity.*

Even the Hon’ble Courts, in various pronouncements, have frowned upon the Appellants who file appeals but thereafter do not take any further interest in prosecuting those appeals.

i. The Hon’ble Income Tax Appellate Tribunal - Kolkata in the case of Pradeep Kumar Jhavar, Kolkata vs. D.C.I.T., C.C.-XXI (15 March, 2016) (ITA Nos. 450/Kol/2013 for Asstt. Year: 2006-07) dismissed the appeal of the Appellant for non-prosecution.

i. The Hon’ble Madhya Pradesh High Court in the case of Estate of Late Tukojirao Holkar vs. CWT (223 ITR 480) held as under:

“If the party, at whose instance the reference is made, fails to appear at the hearing, or fails in taking steps for preparation of the paper books so as to enable hearing of the reference, the court is not bound to answer the reference.”

1. Similarly, the Hon’ble Punjab & Haryana High Court in the case of New Diwan Oil Mills vs. CIT (2008) 296 ITR 495) returned the reference unanswered since the assessee remained absent and there was no assistance from the assessee.

1. Their Lordships of Hon'ble Supreme Court in the case of CIT vs. B. Bhattacharjee & Another (118 ITR 461 at page 477-478) held that appeal does not mean, mere filing of the memo of appeal but effectively pursuing the same. In the judgment, their Lordships averred as follows:

“.....This turns on the meaning of the words "preferred an appeal". "Preferred" is a word of dual import. Its semantics depend on the scheme and the context; its import must help, not hamper, the object of the enactment even if liberty with language may be necessary. There is good ground to think that an appeal means an effective appeal. An appeal withdrawn is an appeal non est as judicial thinking suggests. Black's Law Dictionary gives the following meaning: 'PREFER: To bring before; to prosecute; to try to proceed with'. Thus, preferring an indictment signifies prosecuting or trying an indictment. It means to give advantage, priority, or privilege; to select for first payment, as to prefer one creditor over others. Thus, it may mean 'prosecute' or 'effectively pursue' a proceeding or merely institute it. Purposefully interpreted, preferring an appeal means more than formally filing it but effectively pursuing it.....”

In view of the above, it is clear that the Appellant is not aggrieved with the assessment order impugned herein and is not interested in prosecuting the same. In such circumstances, the appeal is liable to be dismissed.

7.2.3. It is observed from records that the Appellant has clarified before the officers of the Investigation Wing that Rs.3.5 crore was received by him in Mar'2013 in the form of 'Unsecured loans' from the parties named 'Mr. Stelin Lapang & Mr. Robinson Makri'. No details of the creditors were furnished by the Appellant during the assessment proceedings and appellate proceedings. The exact identities & creditworthiness of the creditors remain unexplained. It can be concluded that the amount of Rs.3.5cr. shall be treated as Unexplained cash credit within the meaning of Section 68 of the IT Act. Thus, the addition u/s 68 of Rs.3,50,00,000/- made in the assessment order is hereby confirmed. Ground No. 1 is dismissed accordingly.

7.3. Decision on Ground(s) of Appeal No(s). 2 :

The Appellant contended that estimation of income needs to be based on comparables in similar line of business. As discussed in above paras, the Appellant did not respond to notices issued during assessment as well as appellate proceedings. No details have been furnished about business activities or comparables. It is not known whether Books of account were maintained for the relevant year. No documentary evidence was furnished in



support of the transactions. The AO treated the credits in the bank account as business turnover and estimated business income at 8% of turnover. The estimation made by the AO is justifiable and needs to be upheld. Thus, the addition of Rs. 17,10,760/- is hereby confirmed. Ground No. 2 is dismissed accordingly.

In the result, the Appeal is dismissed. In the result, the Appeal is decided as above.”

4. Aggrieved with the order of the Ld. CIT(A), the Assessee has filed the appeal before the Tribunal.

5. Rival contentions were heard and the submissions made have been examined. It was submitted by the Ld. AR that the assessee trades in grocery items and agricultural produce and proper compliance could not be made before the Ld. AO/the Ld. CIT(A). It was stated by the Ld. AR that the Ld. CIT(A) was in Guwahati and the assessee was in Shillong, hence, he could not make proper submission and requested to remand the matter to the Ld. CIT(A) and also assured that proper submission would be made if the appeal is remanded to the Ld. CIT(A). The Ld. DR stated that several notices were issued from September, 2023 to September, 2024 as there was no compliance, the income was assessed at the rate of 8% of the turnover. The Ld. DR relied upon the order of the Ld. CIT(A) and requested that the same may be upheld.

6. We have considered the submissions made, gone through the facts of the case and perused the record and the order of the Ld. CIT(A). The appeal was dismissed on account of non-prosecution by the assessee and the reasons for non-compliance are mentioned to be the assessee being located at a distance and therefore, not being able to attend the appeal proceedings properly. Even before the Ld. AO, no proper compliance could be made. After examining the facts of the case and the law, we deem it appropriate in the interest of justice and fair play that another



opportunity of being heard may be provided to the assessee so that the assessee can explain the transactions properly and therefore, we hereby set aside the order of the Ld. CIT(A) and restore the appeal to him for disposal of the grounds of appeal taken by the assessee on merits by passing a speaking order. Needless to say, the assessee shall be given a reasonable opportunity of being heard to make any further submission it wants to make in support of its grounds of appeal and shall not seek unnecessary adjournments and rule 46A of the I.T. Rules, 1962 shall also be followed and an opportunity of being heard may be provided to the Ld. AO, if required. Accordingly, the grounds taken by the assessee in his appeal are partly allowed for statistical purposes.

7. Since the facts and issues in the appeals in ITA Nos. 376 & 377/KOL/2025 for AYs 2017-18 & 2018-19 are identical, our findings in ITA No. 375/KOL/2025 for AY 2013-14 shall *mutatis mutandis* also apply in the appeal for AYs 2017-18 & 2018-19. The grounds taken by the assessee in these appeals are also partly allowed for statistical purposes and both these appeals are also remanded to the Ld. CIT(A) for readjudication.

8. In the result, all the three appeals filed by the Assessee are partly allowed for statistical purposes.

Order pronounced in the open Court on 26th February, 2026.

Sd/-

[Sonjoy Sarma]
Judicial Member

Sd/-

[Rakesh Mishra]
Accountant Member

Dated: 26.02.2026

Bidhan (Sr. P.S.)



Copy of the order forwarded to:

1. **Unteshwar Singh/ Unteswar Singh, 201, Nongpoh G S Road, Nongpoh, Ribhoi, Shillong, Meghalaya, 793102.**
2. **DCIT, Central Circle-2, Guwahati.**
3. CIT(A)- Central NER, Guwahati.
4. CIT-
5. CIT(DR), Guwahati Benches, Guwahati.
6. Guard File.

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By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata