

**IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH, KOLKATA**

**SHRI RAJESH KUMAR, ACCOUNTANT MEMBER  
PRADIP KUMAR CHOUBEY, JUDICIAL MEMBER**

**I.T.A. No. 1486/Kol/2025  
(Assessment Year 2013-2014)**

**Khalek Biswas,**

S/o Icchaque Biswasvill Par  
Naihati, PO, Sangrampur SD  
Basirhat, North- 24 PGS,  
West Bengal - 743422  
[PAN: ASHPB7065R]

..... **Appellant**

**vs.**

**Deputy Commissioner of Income Tax,  
Circle 49(1), Kolkata,**

Uttarapan Complex, Ultadanga,  
Maniktala, Civic Centre,  
Kolkata - 700054

..... **Respondent**

**Appearances by:**

Assessee represented by : S.M. Surana, Adv.  
Sunil Surana, CA

Department represented by : Subhendu Datta, CIT-DR

Date of concluding the hearing : 24.02.2026

Date of pronouncing the order : 05.03.2026

**ORDER**

**Per Rajesh Kumar, AM**

The present appeal filed by the assessee arises from order dated 09.02.2023 passed u/s 250 of the Income Tax Act, 1961 (hereafter “the Act”) by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [hereinafter referred to “the Ld. CIT(A)] for AY 2013-14.

2. At the outset, we observe that from the appeal folder that there is a delay of 802 days in filing the appeal by the assessee for which condonation

petition along with affidavit is filed. It is stated in the affidavit that the email communications have wrongly landed in the spam/junk folder of the assessee email account. Hence the appellant was completely unaware about the order by the Ld. CIT(A) being passed. It is only after he received communication on 28.06.2020 for payment of outstanding demand, the assessee came to know about the said order having been passed. Thereafter, the steps were taken to file the appeal and finally, the appeal was filed with a delay of 802 days. The Ld. AR prayed that since the delay is beyond the control of the assessee and is a sufficient reasons, therefore, the matter may be condoned.

3. The Ld. DR on the other hand strongly objected to the condonation of the delay on the ground that the reasons explained by the assessee are not sufficient and reasonable. Therefore, the appeal of the assessee may be dismissed as being barred by limitation.

4. After hearing the rival contention and perusing the material available on record, we find that the delay is for reasonable cause and therefore, we are inclined to condone the same and admit the appeal for adjudication.

5. The only issue raised by the assessee is against the order of Ld.CIT(A) confirming the addition of Rs. 7,93,15,900/- as made by the AO on account of cash deposited into the bank account.

6. The facts in brief are that the assessee filed return of income on 09.08.2013 declaring total income at Rs. 3,44,350/- which was processed u/s 143(1) of the Act on 07.01.2014. The case of the assessee was selected for scrutiny under CASS and statutory notices with along with questionnaire were duly filed and served upon the assessee. The assessee complied with the said notices by filing the details/evidences as called for by the AO. Upon perusal of the evidences by the assessee, the AO noted that the assessee has proprietary concern namely Biswas Enterprises. AO further noted that the assessee had maintained two bank accounts with

Axis Bank, Bashirhat Branch and the assessee has deposited cash aggregating to Rs. 4,58,15,900/- and Rs. 3,35,00,000/- respectively during financial year 2012-13 on various dates. Besides the interest of Rs. 9,21,420/- was also received by the assessee from the A/c No. 94381. The AO issued summons u/s 131 of the Act to the assessee on 09.09.2015 to appear personally on 15.09.2015. On the said date the statement of the assessee was recorded. During the course of statement, the assessee submitted before the AO that he was directed by Mr. Barik Biswas to open bank accounts in his name and all these transactions were done by Mr. Barik Biswas only. The assessee also filed affidavit on 14.09.2015 before the AO stating that the cash transactions were done by Mr. Barik Biswas and the whole money belonged to the said person. The AO added Rs. 7,93,15,900/- substantively in the hands of Mr. Barik Biswas, whereas the addition on a protective basis made in the hands of the assessee. Beside the AO made addition of interest received by the assessee at Rs. 9,21,420/- to the income of the assessee.

7. In the appellate proceedings, the Ld. CIT(A) dismissed the appeal of the assessee.

8. After hearing the rival contention and perusing the material available on record, we find that Mr. Barik Biswas was stated to be responsible for open the bank accounts in the name of the assessee and depositing money therein. In other words, the money deposited in the bank account belongs to Mr. Barik Biswas. We note that the addition was made substantively in the hands of Mr. Barik Biswas and protectively in the hands of the assessee. The Ld. Counsel of the assessee filed balance sheet of Mr. Barik Biswas as on 31.03.2013 wherefrom we observe that these two accounts number 794381 and 390987 were disclosed by Mr. Barik Biswas in his balance sheet meaning thereby that the transactions of cash deposit during the year were accordingly, accounted for by the said person in his books of accounts. Once the transactions are incorporated in the books of accounts

of Mr. Barik Biswas, the same cannot be added in the hands of the assessee even protectively. Consequently, we find support from the decision of coordinate Bench of the Tribunal in the case of Rabiul Islam Gain Vs. ITO Ward, 49(1), AY 2013-14, ITA No. 1485/Kol/2025, order dated 23.12.2025, wherein the similar transactions by Barik Biswas which were added in the hands of the Mr. Rabiul Islam Gain were deleted. The operative part is extracted below:

*“3.4. After hearing the rival contentions and perusing the materials available on record, we find that in this case undisputedly assessee was an employee with Bark Enterprises owned by Mr. Bark Biswas drawing salary from the said firm. We note that the two bank accounts were opened with the Axis bank Limited of Bashirhat Branch in the name of the assessee and the cash was deposited into these accounts amounting to ₹4,41,59,900/- and ₹2,52,00,000/- respectively. There was accrual of interest of ₹8,54,906/ and 57,436/- respectively on these banks. During the course of assessment proceedings, the assessee submitted that he has no knowledge about the cash deposits into his bank accounts and submitted that all his transactions were made by his employer shri Bark Biswas. We further note from affidavit dated 26.08.2016 of Bark Biswas wherein he admitted that the transactions were done by him and the entire money belonged to him. The addition was made in the hands of the Barik Biswas, substantially and in the hands of the assessee protectively. In our opinion, when the Mr Barik Biswas has owned the cash deposits and disclosed the same in his return of income then same cannot be added protectively in the hands of the assessee. We find from the balance sheet of Biswas Enterprises, Proprietor Barik Biswas that these accounts were disclosed in the balance sheet and entire receipt was accounted for and Mr. Bark Biswas was assessed to tax vide order dated 30.03.2016, passed u/s 143(3)/ 147 of the Act, wherein the addition of ₹49,34,07,527/- was made. Considering these facts and circumstances, we are inclined to set aside the order of ld. CIT (A) and direct the ld. AO to delete the addition as there is no scope for adding the income on protective basis in the hands of the assessee when Mr. Barik Biswas has himself admitted and owned up the cash deposit.”*

9. We therefore, respectfully following the decision of coordinate Bench, set aside the order of Ld. CIT(A) and direct the AO to delete the addition.

10. In the result, the appeal of the assessee is allowed.

Order pronounced on 05.03.2026

Sd/-  
**(Pradip Kumar Choubey)**  
**Judicial Member**

Sd/-  
**(Rajesh Kumar)**  
**Accountant Member**

Dated: 05.03.2026  
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

