

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
KOLKATA-PATNA 'e-COURT', KOLKATA  
[Hybrid Court Hearing]**

**Before Shri Duvvuru RL Reddy, Vice-President (KZ)  
&  
Shri Rajesh Kumar, Accountant Member**

**I.T.A. No. 258/PAT/2024  
Assessment Year: 2015-2016**

**Subodh Kumar Singh,.....Appellant  
B-1, Vaishavi Apartment,  
Behind Petrol Pump,  
Sadagaut Ashram, Patna-800010,  
Bihar  
[PAN:CDFPS1206N]**

**-Vs.-**

**Income Tax Officer,.....Respondent  
Ward-6(2), Patna,  
Bihar**

**Appearances by:**

*No one, appeared on behalf of the assessee*

*Shri Ashok Kumar, CIT, appeared on behalf of the  
Revenue*

**Date of concluding the hearing: December 02, 2024  
Date of pronouncing the order: December 10, 2024**

**O R D E R**

**Per Duvvuru RL Reddy, Vice-President (KZ):-**

The present appeal is directed at the instance of assessee against the order of Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 23<sup>rd</sup> January, 2024 passed for Assessment Year 2015-16.

2. Brief facts of the case are that the assessee is an individual, Who filed his return of income for the assessment year 2015-16. The ld. Assessing Officer received some information that the appellant had entered into a Land Development Agreement with M/s. Akriti Buildicon Pvt. Limited on 05.08.2014 in financial year 2014-15. As per the agreement, one-third of 50% of the total land area of 45,454.86 sq. ft. owned by the appellant was to be constructed upon by the land developer. As pe the registered Land Development Agreement, the total value of the land was Rs.9,90,84,600/- and the total value of share owned by the appellant was Rs.1,89,13,162/-. As a bundle of ownership rights over assessee's share of land was relinquished by the appellant in terms of the land development agreement, the provision of section 53A of the Transfer of Property Ac, 1882 and the capital gains arising out of such transfer under section 2(47)(v), 45 and 48 of the Income Tax Act was attracted. Accordingly, a notice under section 148 of the Act was issued on 22.10.2018 but the assessee did not comply with the notice. Subsequently notices under section 142(1) of the Act dated 12.02.2019 and dated 26.08.2019 were issued but the assessee did not comply. Thereafter a show-cause notice was issued but there was no response from the assessee. Since there was no response from the assessee, ld. Assessing Officer completed the assessment assessing the capital gains for an amount of Rs.3,03,67,313/-.

3. On being aggrieved, the assessee preferred an appeal before the ld. CIT(Appeals). Inspite of issuance of notice, the assessee did not file any evidence or written submission to substantiate his

claim. Therefore, ld. CIT(Appeals) confirmed the addition made by the ld. Assessing Officer under the head “capital gains”.

4. On being aggrieved, the assessee preferred an appeal before the Tribunal raising various grounds. The main grievance of the assessee is that both the authorities have not given sufficient opportunity to the assessee to substantiate his claim.

5. There is no representation from the assessee inspite of receipt of the notice. We have heard the ld. D.R. It was the submission of the ld. D.R. that the ld. CIT(Appeals) has given sufficient opportunities but assessee failed to appear before the ld. CIT(Appeals). He, therefore, pleaded to uphold the order passed by the ld. CIT(Appeals).

6. We have perused the material available on record. Considering the facts and circumstances of the case, we are inclined to set aside the order passed by the ld. CIT(Appeals) in order to meet the principle of natural justice, and remit the matter back to the file of ld. CIT(Appeals) with a direction to provide one more opportunity of being heard to the assessee. At the same breath, we also hereby caution the assessee to promptly co-operate with the proceedings before the Ld. CIT(Appeals) failing which the Ld. CIT(Appeals) shall be at liberty to pass appropriate order in accordance with law and merits based on the materials available on the record. Thus, the grounds raised by the assessee are allowed for statistical purposes.

**7. In the result, the appeal of the assessee is allowed for statistical purposes.**

Order pronounced in the open Court on 10/12/2024.

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

Sd/-  
**(Duvvuru RL Reddy)**  
**Vice-President (KZ)**

***Kolkata, the 10<sup>th</sup> day of December, 2024***

*Copies to :(1) Subodh Kumar Singh,  
B-1, Vaishavi Apartment,  
Behind Petrol Pump,  
Sadagaut Ashram, Patna-800010, Bihar*

- (2) Income Tax Officer,  
Ward-6(2), Patna, Bihar*
- (3) Commissioner of Income Tax (Appeals);  
National Faceless Appeal Centre (NFAC),  
Delhi;*
- (4) CIT - , Patna;*
- (5) The Departmental Representative;*
- (6) Guard File*
- TRUE COPY**

*By order*

*Assistant Registrar,  
Income Tax Appellate Tribunal,  
Kolkata Benches, Kolkata*

**Laha/Sr. P.S.**