

**IN THE INCOME TAX APPELLATE TRIBUNAL "PATNA BENCH" PATNA**  
**(VIRTUAL HEARING AT KOLKATA)**

**SHRI DUVVURU RL REDDY, VICE PRESIDENT**  
**SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER**

**I.T.A. No. 255/Pat/2024**  
**Assessment Year: 2014-15**

**Kiran Jaiswal,**  
Pallavi Nagar, Gaighat  
Gulzarbag, Patna City,  
Bihar - 800007  
[PAN: ATCPJ3210A]

..... **Appellant**

**vs.**

**ITO Ward 4(5), Patna,**  
Pallavi Nagar, Gaighat  
Gulzarbag, Patna City,  
Bihar – 800007

..... **Respondent**

**Appearances by:**

Assessee represented by : None  
Department represented by : Sh. Ashok Kumar, CIT- DR

Date of concluding the hearing : 28.11.2024  
Date of pronouncing the order : 31.12.2024

**ORDER**

**PER SANJAY AWASTHI, ACCOUNTANT MEMBER:**

1. The present appeal emanates from the order u/s 250 of the Income Tax Act, 1961 (hereafter 'the Act'), passed by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi. The impugned order dated 22.12.2023 is against the order of Ld. AO dated 04.12.2019.

1.1 It is seen that the Ld. AO initiated proceedings u/s 147 of the Act on the ground that the assessee had entered into a financial transaction

amounting to Rs. 31,25,000/- in immovable property during the relevant assessment year. It is recorded by the Ld. AO that initially some submissions were made in response to notices issued by him but eventually the assessee did not even file any return of income in response to the notice u/s 148 of the Act. Due to non-compliance by the assessee during the later stages of the assessment proceedings, the Ld. AO proceeded to add Rs. 23,96,000/- u/s 69 of the Act, and also added Rs. 28,78,784/- as Long-Term Capital Gains (LTCG). It is pertinent to mention that apparently the assessee wanted to submit responses in hard copy format, whereas the Ld. AO insisted for online submissions only.

2. In light of these additions, the assessee approached the Ld. CIT(A). However, before the Ld. CIT(A) also it is recorded in para 3 of the impugned order that as many as 4 notices fixing date for hearing were not responded to by the assessee. The Ld. CIT(A) thereafter dismissed the appeal with the following findings:

*“7. the appeal despite being granted opportunities as elaborated in paras above. No details, documents or submissions have been provided to come to any conclusion other than those arrived at by the assessing officer in the order. During the appellate proceedings the appellant was given opportunities to put forth his case, but he did not upload any response despite service of notice(s). Considering all the facts and the circumstances of the case no interference with the order of the AO is called for. The appellate proceedings cannot be allowed to be held hostage by dilatory tactics on the part of the appellant and a complete disdain for statutory notices. Therefore, I find no infirmity in the order passed by the assessing officer.*

*8. In the result, the appeal is dismissed.”*

3. Aggrieved with this action of Ld. CIT(A), the assessee has filed the present appeal with following grounds:

*“1. For that the grounds of appeal hereto are without prejudice to each other.*

*2. For that the order of the learned assessing officer and also the learned Commissioner of Income Tax (Appeal) is bad both in law and on facts.*

*3. For that the order of the learned assessing officer and also the learned Commissioner of Income Tax (Appeal) is based on presumption, surmises and conjectures.*

4. For that the learned assessing officer has erred in completing the assessment *ex parte* to the best of judgement though made under Section 143 (3)/ 147 of the Act merely on the ground that the details directed to be filed were not filed online even though the same were submitted manually.

5. For that the learned assessing officer has erred in adding a sum of Rs.23,96,000 on account of undisclosed investment in land under Section 69 of the Act merely on the ground that the appellant has failed to explain the said investment notwithstanding the fact that the same were made out of sale proceeds of another land and were long-term capital gains assessable as such subject to deductions available under the Act.

6. For that the learned assessing officer has erred in adding a sum of Rs.28,78,784 on account of long-term capital gain merely on the ground that the appellant has sold land for Rs.31,25,000 the estimated cost of acquisition whereof would be Rs.2,46,000 notwithstanding the fact that the whole of the sale proceeds were invested in purchase of land and construction of residential house there on and that the same were specifically exempt under Section 54 of the Act.

7. For that the learned Commissioner of Income Tax (Appeal) has erred in dismissing the appeal merely on the ground that the notices issued by not complied with notwithstanding the fact that the notices were issued in between 23.10.2023 TO 30.11.2023 falling in the time duration of 1 month and 10 days only and that during the said period the appellant was critically ill and was advised complete bed rest by the treating physician and therefore, the default if any for not entering appearance in appeal it proceeding was due to a reasonable cause.

8. For that other various reasons may be urged at the time of hearing.”

3.1 On the last date of hearing, none appeared on behalf of the assessee. However, with the assistance of Ld. DR the order of authorities below and the statement of facts filed by the assessee were perused. It is seen that the assessee has suffered on account of poor persuasion of his matter before the authorities below. On a query from the Bench, the Ld. DR was agreeable to this matter being remanded back to the file of Ld. AO for fresh adjudication.

3.2 Considering the totality of facts and circumstances, we deem it fit to remand this matter back to the file of Ld. AO so that the facts surrounding the impugned additions could be clearly ascertained. The Ld. AO would do well to provide adequate opportunity and accept documents in whichever

form the assessee is capable of submitting. The assessee would do well to avail of opportunities for presenting her case.

3. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the court on 31.12.2024

Sd/-  
**[Duvvuru RL Reddy]**  
**Vice President**

Sd/-  
**[Sanjay Awasthi]**  
**Accountant Member**

Dated: 31.12.2024.  
AK, PS

*Copy of the order forwarded to:*

1. Kiran Jaiswal
2. Income Tax Officer, Ward 4(5), Patna
3. CIT(A)-
4. CIT-
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches