

**IN THE INCOME TAX APPELLATE TRIBUNAL  
PATNA "SMC" BENCH, VIRTUAL HEARING AT KOLKATA**

**Before  
SRI SANJAY GARG, JUDICIAL MEMBER**

**I.T.A. No.: 13/PAT/2025  
Assessment Year: 2015-16**

<b>Uday Kumar Singh</b> <b>Madhuri Niwas Road No. 1,</b> <b>Rajendra Nagar, Patna-800016.</b> <b>(PAN: AIOPS7954H)</b>	.....	<b>Appellant</b>
<b>Vs.</b>		
<b>ITO, Ward-6(2), Patna</b>	.....	<b>Respondent</b>

**Appearances:**

**Appellant represented by:** *Shri Shailendra Sinhs, AR*  
**Respondent represented by:** *Shri Ashwani Kumar, Sr. DR*

Date of concluding the hearing : 10.02.2025

Date of pronouncing the order : 10.02.2025

**ORDER**

The captioned appeal has been preferred by the assessee against the order dated 09.11.2022 of the Ld. Commissioner of Income Tax (Appeal), National Faceless Appeal Centre, Delhi [hereinafter referred to as Ld. 'CIT(A)'] u/s. 250 of the Income Tax Act, 1961 (hereinafter referred to as the "Act") for Assessment Year (AY) 2015-16.

2. Appeal of the assessee is time barred by 713 days. An application for condonation of delay has been filed. Considering the averments made in the application for condonation of delay, delay in filing the appeal is hereby condoned and the appeal is taken up for hearing.

3. The assessee is aggrieved by the action of the Ld. CIT(A) in confirming the addition made by the Assessing Officer of Rs.36,76,169/- on account of alleged capital gains earned by the assessee on execution of the development agreement.

4. At the outset, the Ld. Counsel for the assessee has invited my attention to the impugned assessment order and submitted that the same is an ex parte

order passed u/s. 144/147 of the Act. The Ld. Counsel has further submitted that the assessee namely, Shri Uday Kumar Singh had died on 22.02.2019 whereas, the impugned assessment order is dated 16.12.2019. He has submitted that the wife of the deceased assessee namely, Smt. Madhuri Singh was impleaded as a legal heir of the deceased assessee, but, she being an illiterate and old aged lady, could not present her case before the Assessing Officer resulting into the ex parte order of the Assessing Officer. Thereafter, she preferred appeal before the Ld. CIT(A), but the same also remained unrepresented by the Ld. AR of the assessee resulting into the impugned order of the Ld. CIT(A).

5. The Ld. Counsel for the assessee has submitted that the legal heir of the assessee namely, Smt. Madhuri Singh being an illiterate and old aged lady was not aware of the nitty gritty of the income tax proceedings. He has submitted that in the interests of justice, the assessee may be given an opportunity to present her case before the Assessing Officer.

6. Considering the aforesaid peculiar facts and circumstances of this case, the impugned order of the Ld. CIT(A) is set aside and the matter is restored to the of the Assessing Officer for de novo assessment. It will be open to the assessee to raise all the grounds, legal as well as other grounds on merits, before the Assessing Officer and the Assessing Officer will decide the same in accordance with law.

6. In the result, the appeal of the assessee stands allowed for statistical purposes..

***Order pronounced in the open Court.***

Sd/-  
**[Sanjay Garg]**  
Judicial Member

Dated: 10.02.2025

*J.Dey (Sr. P.S.)*

*Copy of the order forwarded to:*

1. **Appellant : Shri Uday Kumar Singh.**
2. **Respondent : ITO, Ward-6(2), Patna**
3. **CIT(A), NFAC, Delhi**
4. **CIT**
5. DR, ITAT, Patna Bench, Patna.
6. Guard File.

*// True copy //*

By order

Assistant Registrar  
ITAT, Patna Benches  
Patna