

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

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

**ITA No. 574/PAT/2024
Assessment Year: 2015-16**

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| Satya Narayan Singh Murlichak, Near Airport, PO B.V. College, Patna-800014. (PAN: EADPS2935B) | Vs. | ITO, Ward-6(2), Patna |
| (Appellant) | | (Respondent) |

Present for:

Appellant by : Shri Alok Kumar, Advocate
Respondent by : Shri Ashwani Kr. Singal, JCIT

Date of Hearing : 06.05.2025
Date of Pronouncement : 21.05.2025

ORDER

Per Sanjay Awasthi, Accountant Member :

This appeal arises from the order u/s. 250 of the Income-tax Act, 1961 (hereinafter referred to as the "Act") dated 25.06.2024 passed by Ld. CIT(A), NFAC, Delhi.

2. In this case, there is a delay of 12 days for which the assessee has filed a detailed petition praying for condonation of the said delay. In this petition, it has been stated that due to medical problems the assessee was advised rest by the doctor and hence, he could not promptly file the appeal before the Hon'ble ITAT when the time was due. Considering the short delay in the matter and the reasons given for the said delay, we hereby condone the delay and admit this appeal for adjudication.

3. In this case, the Id. Assessing Officer is seemed to have passed an order u/s. 147 r.w.s. 144 of the Act. In this order, the Assessing Officer has assessed capital gains at Rs.1,34,97,643/-. Aggrieved with this case, the assessee approached the Ld. CIT(A). However, it was recorded on pages 3 and 4 of the impugned order that five notices given to the assessee fixing the dates of hearing, were not responded. Accordingly, the Ld. CIT(A) proceeded ahead to pass an ex parte order by confirming the action of Assessing Officer.

4. Further aggrieved with this action, the assessee has filed the present appeal with the following grounds:

“1. For that, on the facts and circumstances of the case, Ld. CIT(A) is not justified in confirming the order of assessment because the assessing officer has passed the ex-parte order without providing proper opportunity.

2. For that, on the facts and circumstances of the case, Ld. CIT(A) erred in passing the ex-parte order without issuing the notice through other means as provided ix] s 282 of the IT Act. Therefore, it is against the natural justice.

3. For that, on the facts and circumstances of the case, Ld. CIT(A) erred in confirming the order of assessment because the assessing officer has made the addition of Rs.1,34,97,643/- on account of irrelevant consideration and assumption of LTCG after wrongly invoking section 2(47),45,48 & sac of the Act.

4. For that, on the facts and circumstances of the case, Ld. CIT(A) erred in confirming the order of assessment because the assessing officer has erroneously considered that the capital has been transferred while title of the deed clearly shows that it is Development Deed.

5. For that, on the facts and circumstances of the case, Ld. CIT(A) erred in confirming the order of assessment because the assessing officer has erroneously considered and added LTCG u/s 50C of the Act since provision of section sac is not applicable in the present case and construction cost has been derived only on assumption basis.

6.For that, the ground taken herein above is not prejudicial to each other.

7. For those other grounds, if any, shall be urged at the time of hearing of this appeal, as the appellant crave the right to add or amend the ground at any stage of appellate proceedings.”

5. Before us, the Id. AR took us through the facts of the case and stated that for some reason the assessee could not receive the notice

sent from the office of Ld. CIT(A) through e-mail. The ld. AR thereafter assailed the action of the Ld. CIT(A) in passing the ex parte order.

6. The ld. DR, on the other hand, relied on the order of Assessing Officer and stated that it was the duty of the assessee to make a representation before the Ld. CIT(A) in case he wanted any relief thereon.

7. We have carefully considered the rival submissions and also gone through the records. We find that the impugned order is an ex parte order and hence, considering the totality of facts and circumstances, we set aside the impugned order and remand this matter back to the file of Ld. CIT(A) for fresh adjudication. Needless to say, the ld. CIT(A) would give adequate opportunity of being heard and the assessee would do well to avail of such opportunities.

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

9. Order is pronounced on 21st May, 2025.

Sd/-

Sd/-

(Duvvuru RL Reddy)
Vice President

(Sanjay Awasthi)
Accountant Member

Dated: 21st May, 2025

JD, Sr. P.S.

Copy to:

1. The Appellant: Shri Satya Narayan Singh
2. The 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, Kolkata Benches, Kolkata