

**IN THE INCOME TAX APPELLATE TRIBUNAL, PATNA BENCH, PATNA**  
**BEFORE SHRI DUVVURU RL REDDY, VICE PRESIDENT**  
**AND**  
**SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER**

**(THROUGH VIRTUAL HEARING AT KOLKATA)**

**ITA Nos.48&49/PAT/2025**

**(निर्धारण वर्ष /Assessment Year : 2016-2017)**

<b>Balwant Singh Chouhan, 2302, Tower 1, Lotus Zing, Sector-168, Noida, Chhaprauli Bangar, Gautam Buddha Nagar, Noida</b>	Vs	<b>ITO Ward-4(2), Patna</b>
<b>PAN No. :AEPPC 6026 F</b>		
<b>(अपीलार्थी /Appellant)</b>	..	<b>(प्रत्यर्थी / Respondent)</b>
<b>निर्धारिती की ओर से /Assessee by</b>	:	None
<b>राजस्व की ओर से /Revenue by</b>	:	Shri Ashwani Kr. Singal, JCIT
<b>सुनवाई की तारीख / Date of Hearing</b>	:	07/05/2025
<b>घोषणा की तारीख/Date of Pronouncement</b>	:	13/06/2025

**आदेश / ORDER**

**Per Duvvuru RL Reddy, Vice President :**

These two appeals are directed at the instance of assessee against separate the orders of Id. Commissioner of Income Tax (Appeals)-3, Patna, both dated 28.11.2023 passed for Assessment Year 2016-2017.

2. At the outset, we find that appeal of the assessee in ITA No.48/Pat/2025 is barred by 374 days and appeal of the assessee in ITA No.49/Pat/2025 is filed belatedly by 345 days. In this regard, the assessee has filed condonation of applications in both the files and contended that the Id. CIT(A) has passed ex-parte order without issuing proper notice to the assessee, therefore, the delay was occurred due to lack of knowledge about the passing of the order by the Id. CIT(A). Thus, Id. Counsel pleaded that the respective delay in each of the appeals may be condoned. Considering the facts and circumstances of the case and

the materials available on record, we are of the view that it is a fit case to condone the delay in filing both the appeals by the assessee. Accordingly, we condone the respective delays and both the appeals of the assessee are admitted for hearing.

3. At the time of hearing neither the assessee nor the Id. AR appeared before the Bench to attend this appeal nor any adjournment application was moved by the assessee. Therefore, this appeal is heard and disposed off with the assistance of Id. DR, who pointed out that the assessee had not appeared before both the lower authorities and stated that this appeal may be restored to the file of the Id. CIT (A).

4. In ITA No.48/Pat/2025, the assessee has challenged the order of the Id. CIT(A) on legal as well as on the sustenance of addition made by the AO treating the agricultural income of the assessee as income from other sources based on the alleged undisclosed sources. In ITA No.49/Pat/2025, the assessee has challenged the order passed by the Id. CIT(A) sustaining the penalty levied u/s.271(1)(c) of the Act. For the sake of convenience, we would like to reproduce the grounds raised by the assessee in its quantum appeal filed in ITA No.48/Pat/2025, which read as under :-

1. *The impugned order u/s 147 rws 144 of the I.T. Act. 1961 dated 11.11.2019 as well as the notice u/s 147 rws 144 and action or proceedings u/s 147/144 are illegal, bad in law, barred by limitation, without jurisdiction, without approval/satisfaction from the proper or competent authority, against the principle of natural justice and various other reasons or and further contrary to the real facts of the case hence the same may kindly be quashed.*

1.2. *The Id. AO has grossly erred in law as well as on the facts of the case in passing ex-parte order without providing adequate and*

*reasonable opportunity of being heard in the gross breach of law. Hence the additions so made by the Id. AO may kindly be quashed and delete.*

2. *The Id. CIT(A) has grossly erred in law as well as on the facts of the case in passing ex-party order without providing adequate and reasonable opportunity of being heard in the gross breach of law. Hence the additions so made by the Id. AO may kindly be quashed and delete.*

*3.Rs.6,23,000/-: The Id. CIT(A) has grossly erred in law as well as on the facts of the case in confirming the addition of Rs.6,23,000/- made by the Id. AO on account by treating the agriculture income as income from other sources as alleged undisclosed sources, also erred in not invoking any provisions of law while making the addition. The Ld. AO and CIT(A) both have also erred in not considering the vital facts and material available on record in their true perspective and sense available on record. Hence the addition so made by the Id. AO and confirmed by the Id. CIT(A) is also being contrary to the real facts of the case and not according to the provision of law, hence the same may kindly be deleted in full.*

4. *The Id. AO has grossly erred in law as well as on the facts of the case in charging the interest u/s 234A, B,C. The interest so charged is being totally contrary to the provision of law and on facts of the case and hence same may kindly be deleted in full.*
5. *That the appellant prays your honour indulgences to add, amend or alter of or any of the grounds of the appeal on or before the date of hearing.*

5. To avoid repetition, we have not reproduced the grounds raised by the assessee in its penalty appeal filed in ITA No.49/Pat/2025. A bare perusal of the grounds of appeal raised in both the appeals, we find that the assessee has stated that the Id. CIT(A) has not granted sufficient opportunity being heard to the assessee before passing the respective orders.

6. After hearing the Id. DR and perusing the materials available on record before us with the assistance of the Id. DR, we observed that in this case the assessment was framed u/s 147 read with section 144 of the Act when the assessee failed to appear on the dates fixed for hearing by

the Id. AO. Similarly, before the Id. CIT (A), there was no representation on behalf of the assessee and therefore, the Id. CIT (A) dismissed both the appeals for want of requisite information/ documents. Though, the assessee did not appear before Id. CIT (A) but in consonance of the principle of natural justice and to meet the ends of justice, we remit the matter back to the file of Id. CIT (A) 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 Id. CIT (A), failing which the Id. CIT (A) shall be at liberty to pass appropriate order in accordance with law and merits based on the materials available on record. Thus, the grounds raised by the assessee in both the appeals are allowed for statistical purposes.

7. In the result, both appeals of the assessee are allowed for statistical purposes.

Order dictated and pronounced in the open court on 13/06/2025.

<b>Sd/-</b> <b>(SANJAY AWASTHI)</b> लेखा सदस्य/ <b>ACCOUNTANT MEMBER</b>	<b>Sd/-</b> <b>(DUVVURU RL REDDY)</b> उपाध्यक्ष / <b>VICE PRESIDENT</b>
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**कोलकाता** Kolkata; दिनांक Dated 13/06/2025

*Prakash Kumar Mishra, Sr.P.S.*

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant-
2. प्रत्यर्थी / The Respondent-
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पटना / DR, ITAT, Patna
6. गार्ड फाईल / Guard file.

**आदेशानुसार/ BY ORDER,**

सत्यापित प्रति //True Copy//

**(Assistant Registrar)**  
**Income Tax Appellate**  
**Tribunal, Patna**