

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

**Before Shri Rajesh Kumar, Accountant Member
&
Shri Pradip Kumar Choubey, Judicial Member**

**I.T.A. No. 166/PAT/2025
Assessment Year: 2016-2017**

***Jagdish Prasad,.....Appellant
Nayatola, Kumharar,
Naya Kirti Petrol Pump,
Patna-800026, Bihar
[PAN:AEUPY8479D]***

-Vs.-

***Income Tax Officer,.....Respondent
Ward-6(1), Patna***

Appearances by:

N o n e, appeared on behalf of the assessee

*Shri Ashwani Kumar Singal, JCIT, appeared on behalf
of the Revenue*

Date of concluding the hearing: July 10, 2025

Date of pronouncing the order: July 22, 2025

O R D E R

Per Pradip Kumar Choubey, Judicial Member:-

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 29.11.2024 passed for Assessment Year 2016-2017.

2. The appeal is time barred by 68 days in filing the appeal by the assessee. However, the assessee filed a condonation petition dated 9th April, 2025 saying that the concerned Advocate all of a sudden fell ill and not in a position to attend the Tribunal. Due to that, there was an inordinate delay of 68 days in submitting the appeal before the ITAT. The assessee was not aware of any notices of hearing and the order passed by the Id. CIT(Appeals). When the assessee came to know about the order passed by the Id. CIT(Appeals), the assessee approached the Id. A.R. to prefer an appeal, due to that there was a delay of 68 days in filing the appeal before the Tribunal. Therefore, he pleaded to condone the delay.

3. Considering the facts and circumstances of the case, we are of the view that the assessee was prevented in filing the appeal within the stipulated time. Therefore, we are inclined to condone the delay of 68 days. Hence the delay is condoned.

4. Briefly stated the facts are that the assessee is an individual. The appellant-assessee is entered into Land Development Agreement With M/s Sri Ravi Homes Pvt. Ltd, Patna (The Developer), in the Financial Year 2015-16 relevant to the Assessment Year: 2016-17 under the terms and conditions laid down in Land Development Agreement. The Land Development Agreement (LDA) dated 09.02.2016 registered with the office of Registrar, District Registry Office, Patna is an agreement between

Four persons namely Shri Jagdish Prasad Yadav, Sri Sunil Kumar, Shri Shailendra Kumar, and Shri Vijendra Kumar (hereinafter the assesseees) and M/s Shri Ravi Hornes Pvt. Ltd., Patna (hereinafter the developer) in respect of the aforementioned land. The Ratio of Land Owner and the Builder Share is 50:50. As per registered land development agreement, the total value of land is Rs.4,01,86,000/- and the consideration amount in part of the assessee, as per registered land development agreement, it is Rs.50,23,250/-. That the Assessing Officer while passing order u/s 144 of income tax act 1961 has made addition of Rs.62,89,418/-as capital gain in income of Assessee on the ground that the assessee had not submitted any paper or documents in support of notice u/s 148 of Income Tax Act 1961.

5. Aggrieved by the said assessment order, the assessee preferred an appeal before the ld. CIT(Appeals), wherein the appeal of the assessee had been dismissed on the ground that in the appellate proceeding, the assessee did not file any document or material evidence to substantiate his claim.

6. Being aggrieved and not being satisfied, the assessee preferred an appeal before the Tribunal.

7. None appeared on behalf of assessee. The ld. D.R present.

8. Upon hearing the submission of the ld. Counsel of the revenue and on perusal of the order of lower authorities, we find that before the ld. Assessing Officer, there was no compliance

made by the assessee in response to the notice under section 148 nor the assessee made any compliance in response to the questionnaire issued to him. The ld. Assessing Officer assessed the income of the assessee when there was no response. The ld. CIT(Appeals) has also upheld the order of the ld. Assessing Officer by saying that since the assessee has not responded the notices issued by the ld. Assessing Officer, the index cost of acquisition was taken as 'zero'. It has also held by the ld. CIT(Appeals) that even during the appellate proceeding, the assessee did not file any documents/material evidence to substantiate his case.

9. Keeping in view the order passed by the lower authorities, considering the facts and for the interest of justice, we are inclined to restore the appeal of the assessee to the file of ld. Assessing Officer for fresh consideration with a liberty to the assessee to place all the documents, which requires to be deemed fit and proper. The assessee is directed to cooperate in the proceedings.

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

Order pronounced in the open Court on 22/07/2025.

Sd/-
(Rajesh Kumar)
Accountant Member

Sd/-
(Pradip Kumar Choubey)
Judicial Member

Kolkata, the 22nd day of July, 2025

*Copies to : (1) Jagdish Prasad,
Near Kirti Petrol Pump,
Patna-800026, Bihar*

*(2) Income Tax Officer,
Ward-6(1), Patna*

- (3) *CIT(Appeals), NFAC, Delhi;*
(3) *CIT - ;*
(4) *The Departmental Representative;*
(5) *Guard File*
TRUE COPY

By order

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

Laha/Sr. P.S.