

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

[Virtual Court]

Before

**SHRI SONJOY SARMA, JUDICIAL MEMBER
&
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**I.T.A. No.: 354/PAT/2024
Assessment Year: 2013-14**

Ashutosh Verma (Legal heir of Late Sunaina Devi)	Vs.	Income Tax Officer, Ward 1(1), Bhagalpur
(Appellant)		(Respondent)
PAN: BEIPD5843P		

Appearances:

Assessee represented by : Ankit Jalan, AR.

Department represented by : Ashwani Kumar, Sr. DR.

Date of concluding the hearing : 16-July-2025

Date of pronouncing the order : 08-September-2025

ORDER

PER RAKESH MISHRA, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of the Commissioner of Income Tax (Appeals)-NFAC, Delhi [hereinafter referred to as Ld. 'CIT(A)'] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for AY 2013-14 dated 05.10.2023, which has been passed against the assessment order u/s 147 r.w.s. 144 r.w.s. 144B of the Act, dated 24.09.2021.

1.1. The Registry has informed that the appeal is barred by limitation by 121 days. At the time of hearing, the Ld. Counsel for the assessee submitted the reasons for the delay in filing the appeal. After perusing



the same, we find force in the reasons mentioned therein and are satisfied that the assessee had a reasonable and sufficient cause and was prevented from filing the instant appeal within statutory the time limit. We, therefore, condone the delay and admit the appeal for adjudication.

2. The assessee is in appeal before the Tribunal raising the following grounds of appeal:

“1. For that the Ld. CIT(A) was not justified in upholding the validity of reopening proceedings u/s 147/144/144B which is bad in law and is liable to be quashed.

2. For that the Ld. CIT(A) was not justified in upholding the validity of reopening proceedings in spite of the fact that the purported sanction u/s 151 was not obtained or was not in accordance with law which vitiated the reopening process.

3. For that the Ld. CIT(A) ought to have quashed the entire reassessment proceedings since the same was initiated in the name of a dead person.

4. For that the Ld. CIT(A) was not justified in confirming the addition of Rs. 17,26,979/- made by the A.O. on account of alleged unexplained money by invoking the provisions of sec. 69A of the Act.

5. The appellant craves leave to add further grounds of appeal or alter the grounds at the time of hearing.”

3. Brief facts of the case are that the assessee had not filed the return of income u/s 139 of the Act and as per the information available with the Department, the assessee had purchased immovable property for ₹17,26,797/- during the FY 2012-13. Accordingly, notice u/s 148 of the Act was issued which was not complied with nor subsequent notices were complied with and, therefore, the assessment was made u/s 147 r.w.s. 144 r.w.s. 144B of the Act at the total income of ₹17,26,979/-. Aggrieved with the assessment order, the assessee filed an appeal before



the Ld. CIT(A) who held that the burden was on the assessee to prove the nature and source of the income and since the assessee completely failed to offer any explanation before the Assessing Officer (hereinafter referred to as Ld. 'AO') during the assessment proceedings despite affording sufficient number of opportunities and during the appellate proceedings, statement of facts, grounds of appeal and submissions filed by the assessee were very general in nature, the appeal was dismissed by holding as under:

“7.10 Having considered entire facts of the case, and the case laws cited above, it is apparent that the appellant has completely failed to offer any explanation before the AO during assessment proceedings despite affording sufficient number of opportunities. During the appellate proceedings, Statement of facts, grounds of appeal and submissions filed by the appellant are very general in nature. The only submission made by the appellant is that the companies, Shree Shiromani Project Private Ltd. & Amritvani Sales Private Limited are active companies and have done their annual filing with Registrar of Companies. The appellant has also claimed to have filed a case against Shree Shiromani Project Private Ltd. and Debbaru Promoter Private Limited which is pending in courts and that the loans will be paid to these companies after the pronouncement of the order by the court, however the assessee has also not submitted any details regarding its claim of filing court case against the companies. Thereby, the assessee has completely failed to prove the creditworthiness and genuineness in respect of the said loans taken with any cogent and documentary evidences. The assessee could not provide any financials of the company except company’s registration details downloaded from MCA website, which proves nothing about the creditworthiness of these companies. The assessee has failed to establish any relation with the said companies and any details of repayment of loans taken during F.Y. 2012-13 and interests paid, if any. Making merely self-serving statement not supported by way of any cogent evidence is not acceptable. The fact that the loans taken from these Kolkata based companies were utilised for making permanent investment in the immovable properties and the loans have not been returned even partly, what to say of any interest thereupon. Having considered the facts of the case and the case laws cited above, I find



no infirmity in the order of AO. Accordingly, the addition made of Rs. 17,26,979/- is confirmed. Accordingly, this ground of appeal is dismissed.

8. In the result, appeal is dismissed. Order passed u/s 250 r.w.s 251 of the I.T. Act, 1961.”

4. Aggrieved with the order of the Ld. CIT(A), the assessee has filed the appeal before the Tribunal.

5. Rival contentions were heard and the submissions made have been examined. The Ld. AR submitted that proper representation could not be made before the Ld. CIT(A) on account of lack of communication as the assessee had expired and the legal heir was not aware of the ongoing proceeding and during the course of the hearing requested that the matter may be remanded to the Ld. AO as the assessee has sufficient evidence in support of the claim.

6. We have considered the rival submissions. Since there was no proper compliance before both the Ld. AO as well as the Ld. CIT(A), in the interest of justice and fair play it was considered that the request of the assessee to set aside the case before the Ld. AO may be allowed so that a proper opportunity of being heard may be provided. Hence, after examining the facts of the case, we deem it appropriate to set aside the order of the Ld. CIT(A) as well as the order of the Ld. AO and remit the matter back to the Ld. AO for making the reassessment *de novo*. Needless to say, the assessee shall be given a reasonable opportunity of being heard to make any further submission it wants to make in support of its grounds of appeal and shall not seek unnecessary adjournments. Accordingly, the grounds taken by the assessee in his appeal are allowed for statistical purposes.



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

Order pronounced in the open Court on 8th September, 2025.

Sd/-

[Sonjoy Sarma]
Judicial Member

Sd/-

[Rakesh Mishra]
Accountant Member

Dated: 08.09.2025

Bidhan (Sr. P.S.)



Copy of the order forwarded to:

1. **Ashutosh Verma (Legal heir of Late Sunaina Devi), Rampur Khurd Nath Nagar, Bhagalpur, Bihar, Bhagalpur, Bihar, 812006.**
2. **Income Tax Officer, Ward 1(1), Bhagalpur.**
3. CIT(A)-NFAC, Delhi.
4. CIT-
5. CIT(DR), Patna Bench, Patna.
6. Guard File.

//True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata