

IN THE INCOME TAX APPELLATE TRIBUNAL "PATNA" BENCH, PATNA
(VIRTUAL HEARING AT KOLKATA)

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

I.T.A. No. 244/PAT/2025
(Assessment Year 2016-17)

Sharma Nand Singh,

S/o Late Ganga Mahto,
Chak Musallahpur, Chai Tola Gali,
Near Cooperative Bank, Mahendru,
Patna - 800006
[PAN: EKYPS6595G]

..... **Appellant**

vs.

ITO, Ward-6(4), Patna,

Lok Nayak Jai Prakash Bhawan,
Dak Bunglow Crossing,
Patna - 800001

..... **Respondent**

Appearances by:

Assessee represented by : Shri Vishal Kr., Adv.
Department represented by : Shri Rajat Datta, CIT-DR

Date of concluding the hearing : 16.09.2025

Date of pronouncing the order : 18.09.2025

ORDER

PER SONJOY SARMA, JUDICIAL MEMBER

This appeal arises from order dated 23.11.2023, passed u/s 250 of the Income Tax Act, 1961 (hereafter "the Act") by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereafter "the Ld. CIT(A)] for the assessment year 2016-17.

2. At the threshold, it is noticed that there is a delay of 439 days in filing the appeal before this Tribunal. The assessee has filed an application supported by an affidavit, explaining the reasons for the delay. After considering the submissions and going through the petition, we are satisfied that the assessee was prevented by sufficient cause in filing the

appeal within the prescribed time. Accordingly, the delay is condoned and the appeal is admitted for adjudication.

3. Brief facts of the case are that the assessment was reopened, and the Assessing Officer passed an order under section 143(3) read with section 147 on 16.12.2019, wherein he treated an amount of ₹81,66,750/- as long-term capital gain and determined the total income at ₹83,37,250/-.

4. Aggrieved, the assessee preferred an appeal before the learned CIT(A). However, due to non-compliance on various dates, the appeal was disposed of without considering the issues on merits. Instead of adjudicating the grounds raised, the learned CIT(A) merely set aside the matter to the Assessing Officer with a direction to re-examine the issue.

5. Before us, the assessee contended that the learned CIT(A) erred in not deciding the appeal on merits, which is contrary to the provisions of law. On the other hand, the learned DR submitted that the conduct of the assessee showed repeated non-compliance, due to which the learned CIT(A) had no option but to pass the order.

6. We have considered the rival submissions and perused the material available on record. We find that the learned CIT(A) failed to adjudicate the issues raised before him and instead remitted the matter to the file of the Assessing Officer. Such an approach is not permissible under the law, as the first appellate authority is duty-bound to decide the issues on merits.

7. In view of the above, we set aside the impugned order of the learned CIT(A) and restore the matter to his file for fresh adjudication of the issues raised, on merits, after affording reasonable opportunity of being heard to

the assessee. The assessee is also directed to cooperate and comply with the notices issued by the learned CIT(A).

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

Order pronounced on 18.09.2025

Sd/-
(Rakesh Mishra)
Accountant Member

Sd/-
(Sonjoy Sarma)
Judicial Member

Dated: 18.09.2025

AK, Sr. P.S.

Copy of the order forwarded to:

1. Appellant
2. Respondent
3. Pr. CIT
4. CIT(A)
5. CIT(DR)

//True copy//

By order

Sr. Private Secretary/Assistant Registrar, Patna Bench