

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. 243/PAT/2025
(Assessment Year 2016-17)

Vikash Kumar,

S/o Sharma Nand Singh,
Chak Musallahpur, Chai Tola Gali,
Near Cooperative Bank, Mahendru,
Patna - 800006
[PAN: CDPPK6577C]

..... **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 : 19.09.2025

ORDER

PER SONJOY SARMA, JUDICIAL MEMBER

This appeal arises from order dated 25.08.2023, 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 560 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. The brief facts of the case are that the assessee is an individual, had entered into a Joint Development Agreement (JDA) with a developer during the Financial Year 2015–16. The Assessing Officer initiated proceedings under section 147 of the Income-tax Act, 1961 and accordingly issued notice under section 148 of the Act. In response, the assessee filed return of income. During the course of assessment proceedings, the assessee sought reasons for reopening and filed written submissions along with objections. The Assessing Officer, however, was not satisfied with the submissions and proceeded to compute long-term capital gains of ₹8,16,06,750/- arising out of the JDA, and assessed total income at ₹8,31,07,750/-.

4. Aggrieved, the assessee preferred appeal before the learned CIT(A). However, the assessee did not appear on several occasions, and ultimately the learned CIT(A) passed an ex parte order, dismissing the appeal and sustaining the assessment made by the Assessing Officer.

5. The assessee is now in further appeal before us. The primary contention is that the order of the learned CIT(A) has been passed ex parte, without examining the merits of the case. It was submitted that in the interest of justice, one more opportunity may be given to the assessee to substantiate his claim with supporting documents.

6. The learned Departmental Representative opposed the plea, contending that sufficient opportunities were provided by the CIT(A), but the assessee failed to avail the same and hence the ex parte order was rightly passed.

7. We have heard the rival submissions and perused the material on record. It is an admitted position that the learned CIT(A) passed the impugned order ex parte due to repeated non-appearance of the assessee. However, even in such circumstances, the CIT(A) is required to adjudicate the appeal on the basis of material available on record and deal with the issues on merits. In the present case, the CIT(A) has not done so.

8. In the interest of substantial justice and fair play, we deem it appropriate to restore the matter to the file of the learned CIT(A) for fresh adjudication on merits. The assessee is directed to fully cooperate and comply with the notices issued during the appellate proceedings without fail.

9. In view of the above, the appeal of the assessee is allowed for statistical purposes.

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

Order pronounced on 19.09.2025

Sd/-
(Rakesh Mishra)
Accountant Member

Sd/-
(Sonjoy Sarma)
Judicial Member

Dated: 19.09.2025

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