



**IN THE INCOME TAX APPELLATE TRIBUNAL,
PATNA 'SMC' BENCH, PATNA**

BEFORE SHRI DUVVURU RL REDDY, VICE PRESIDENT(KZ)

ITA No.297/**Pat/2025**
Assessment Year : 2015-16

Jai Prakash Singh, Near Shiv Mandir, Khajpura, Patna-800014, Bihar	Vs.	ITO, Ward 6(1), Patna
PAN/GIR No. AINPS 1974 Q		
(Appellant)	..	(Respondent)

Assessee by : None
Revenue by : Shri Ashwani Kumar Singhal, JCIT

Date of Hearing : 28/08/2025
Date of Pronouncement : 30/09/2025

ORDER

The present appeal is directed at the instance of assessee against the order of Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NAFC), New Delhi NFAC), Delhi dated 21.08.2024 in Appeal No.CIT(A), Patna -1/11368/2019-20 passed for Assessment Year 2015-16.

2. The appeal is time barred by 239 days. The assessee has filed condonation petition stating that the assessee being a senior citizen and was not conversant with the computer system. The notices were issued to the assessee by the Id CIT(A) in the income tax portal and since the assessee was not aware of the notices, no submissions as well as paper book was filed.

Only after getting the penalty notice from the department, assessee came to know about the dismissal of the appeal before the Id CIT(A). Immediately, he contacted the tax professional and filed the appeal. It was in this backdrop that there was delay in filing of appeal. It is prayed that the delay of 239 days may kindly be condoned. Ld Sr DR opposed the condonation petition.

3. After considering the condonation petition, I am satisfied that there was reasonable cause in not filing the appeal within the prescribed time and, hence, condone the delay and admit the appeal for adjudication.

4. Facts in brief are that the assessee is an individual and a regular income tax assessee. The Assessing Officer got information under section 133(6) of the Act that the assessee is having piece of ancestral land of 13503.6 sq.ft in the name of six persons and all are family members. The assessee jointly made a development agreement with Jammano Shree Estate Private Limited for construction of the building. Accordingly, to the development agreement, the assessee is having 45 percent share out of total constructed area. The assessee sold his share of flat in A.Y. 2017-18 and 2018-19. Therefore, the AO initiated proceedings for reassessment u/s.147 of the Act and notice u/s.148 was issued to the assessee. In response to notice, the assessee filed return of income. The Assessing Officer opined that since the assessee had relinquished ownership right over his share by entering into development agreement, as such, the provision of section 53A of T.P. Act attracted the capital gain arising out of such transfer as per the

provision of section 2(47) (v) 45 and 48 of the Act. Accordingly, the AO computed the capital gain of Rs.13,50,589/- and created demand accordingly. Being aggrieved, the assessee carried the matter in appeal but without any success, as the appeal was dismissed due to non-compliance. Hence, the assessee is in appeal before the Tribunal.

5. I have heard Id Sr DR and perused the material available on record. A perusal of the impugned order clearly shows that as there was no response to the notices to substantiate the claim with documentary evidences and submissions, Id CIT(A) confirmed the addition made by the AO. In the ground of appeal, the assessee stated that the Assessing Officer erred in computing capital gain in the assessment year 2015-17 as the assessee neither transferred nor relinquish the right and title in the land nor has received sell consideration, therefore, no capital has arisen and the addition is bad in law. It is also evident that the assessment order has been passed u/s.144 of the Act as the assessee remained non-compliant and failed to produce any evidence in support of the claim. Considering the facts and circumstances of the case, I am inclined to set aside the order passed by the Id. CIT(Appeals) and in order to meet the principle of natural justice, and remit the matter back to the file of the Id CIT(A) with a direction to provide one more opportunity of being heard to the assessee. At the same breath, I also hereby caution the assessee to promptly co-operate with the proceedings before the 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 the record. Thus, the grounds raised by the assessee are allowed for statistical purposes.

6. In the result, appeal of the assessee stands partly allowed for statistical purposes.

Order dictated and pronounced in the open court on 30/09/2025.

Sd/-
(DUVVURU RL REDDY)
VICE PRESIDENT

Cuttack: Dated 30/09/2025
B.K.Parida, Sr. PS (OS)

Copy of the Order forwarded to :

1. The Appellant : Jai Prakash Singh, Near Shiv Mandir, Khajpura, Patna-800014, Bihar
2. The Respondent : ITO, Ward 6(1), Patna
3. The CIT(A)-,NFAC, Delhi
4. Pr.CIT-Patna
5. DR, ITAT, Patna
6. Guard file.

//True Copy//

By order

Asst.Registrar,
Itat, Patna

		Date	Initial	
1.	Draft dictated on	2.9.25		Sr.PS
2.	Draft placed before author	2.9. 25		Sr.PS
3.	Draft proposed & placed before the second member			AM
4.	Draft discussed/approved by Second Member.			AM
5.	Approved Draft comes to the Sr.PS/PS			Sr.PS/PS
6.	Kept for pronouncement on			Sr.PS
7.	File sent to the Bench Clerk			Sr.PS
8.	Date on which file goes to the OS			
9.	Date on which file goes to the SPS			