

**IN THE INCOME TAX APPELLATE TRIBUNAL BENCH-PATNA**  
**VIRTUAL HEARING AT KOLKATA**

**Before Ms. Madhumita Roy, Judicial Member  
and Shri Rakesh Mishra, Accountant Member**

**ITA Nos.356 & 357/Pat/2025  
Assessment Years: 2018-19**

**Hamid Ali.....Appellant**  
**C/o Gulam Murtaza Zakki Shaheed,**  
**Sasaram, Rohtas, Bihar – 821115.**  
**[PAN: ATPPA8563N]**

**vs.**

**ITO, Ward-3(4), Sasaram.....Respondent**

**Appearances by:**

Shri A.K. Rastogi, Sr. Adv., and Shri Rakesh Kumar, Advocate, appeared on behalf of the appellant.

Shri Ashwani Kr. Singal, JCIT, appeared on behalf of the Respondent.

Date of concluding the hearing : October 06, 2025

Date of pronouncing the order : October 10, 2025

**ORDER**

**Per Madhumita Roy, Judicial Member:**

Both the appeals filed by the assessee are directed against the separate orders both dated 12.12.2024 passed by NFAC, Delhi arising out of the orders dated 23.02.2021 and 23.08.2021 passed u/s 143(3) and u/s 270A of the Income Tax Act, 1961 [hereinafter referred to as the “Act”] respectively for Assessment Year 2018-19. ITA No.356/Pat/2025 relates to quantum order whereas ITA No.357/Pat/2025 relates to penalty order.

2. At the outset, we notice that there are delays in filing both the captioned appeals by the assessee by 151 days and applications for condonation for each of the said appeals have been filed by the assessee. On perusal of the contents of the condonation petitions, we find that the contentions/reasons assigned therein are appeared to be genuine and

reasonable. Hence, we condone the delays and admit both the appeals of the assessee for adjudication.

3. ITA No.356/Pat/2025 - The brief facts leading to the case are that the assessee in his return of income for Assessment Year 2018-19 declared long-term capital gains of Rs.1,90,224/- on sale of immovable property. He has shown total sale consideration of Rs.27,00,000/- and claimed index cost of acquisition of Rs.9,45,200/- and index improvement cost of Rs.15,64,576/-. The assessee declared stamp duty value of the said property at Rs.43,17,000/-. It is the case of the revenue that in spite of requests made to the assessee for submission of proof of cost of acquisition, proof of improvement, sale deed and reason for not taking stamp duty value as per his consideration for calculation of long-term capital gains, the assessee has not furnished any reply on cost of improvement and not assigned any reason for taking stamp value as his consideration for calculation of long-term capital gains. However, the purchase deed and sale deed and calculation of long-term capital gains was duly furnished before the Assessing Officer. As the assessee has sold residential land for Rs.27,00,000/- but the stamp duty whereof was calculated at Rs.43,17,000/- the same was considered u/s 53C at fair market value by the Assessing Officer; long-term capital gains on sale of land was calculated at Rs.33,82,000/- taking into consideration the stamp value of the property of Rs.43,17,000/- and not the amount declared by the assessee appearing as the sale consideration in the sale deed itself. An amount of Rs.31,19,776/- was added in the hands of the assessee on account of long-term capital gains which was confirmed by the First Appellate Authority. Hence, the instant appeal is before us.

4. At the time of hearing of the matter, the Ld. Counsel appearing on behalf of the assessee submitted before us that when the stamp duty

value is accepted as the fair market value of the property instead of the amount actually received on the sale of the property by the assessee, the Assessing Officer ought to have called for a report from the DVO in terms of the provisions of Section 50C(2)(a) of the Act. As the same has not been adhered to, the entire addition is bad in law and therefore, not maintainable. Alternatively, he has also submitted that the matter be sent to the Assessing Officer for consideration of the same upon receipt of the DVO's report on the value of the property in question. Such prayer made by the ld. AR has not been controverted by the ld. DR with all his fairness.

5. Having heard the Ld. Counsels appearing for the parties and having regard to the facts and circumstances of the matter, particularly the addition made in the hands of the assessee on account of long-term capital gains accepting the stamp duty value of the property at Rs.43,17,000/- and not Rs.27,00,000/- as declared by the assessee as sale consideration of the said property in question, in our considered opinion, the Assessing Officer has exceeded his jurisdiction by not referring the matter to the DVO for getting a report on the actual valuation of the property in question. Thus, we set aside the issue to the file of the Assessing Officer to consider the issue afresh upon receipt of report from DVO on the actual valuation of the property in question and upon granting an opportunity of being heard to the assessee and further considering the evidences on record or any other evidences which the assessee may choose to file in support of his case at the time of hearing of the matter. The Assessing Officer is directed to pass a reasoned order strictly in accordance with law. The instant appeal of the assessee is allowed for statistical purposes.

6. ITA No.357/Pat/2025 – As the issue in the instant appeal is relating to penalty u/s 270A which is consequential to the quantum order in ITA No.356/Pat/2025 which we have already discussed, therefore, the penalty has no legs to stand and the same is hereby infructuous and thus, quashed.

5. In the result, ITA No.356/Pat/2025 is partly allowed for statistical purposes and ITA No.357/Pat/2025 is dismissed as infructuous.

***Kolkata, the 10<sup>th</sup> October, 2025.***

Sd/-  
**[Rakesh Mishra]**  
**Accountant Member**

Sd/-  
**[Madhumita Roy]**  
**Judicial Member**

Dated: 10.10.2025.  
RS

*Copy of the order forwarded to:*

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

//True copy//

By order

Assistant Registrar, Kolkata Benches