

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

Before

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

**ITA No.: 117/PAT/2025
Assessment Year: 2014-15**

Kripa Shanker	Vs.	Income Tax Officer, Ward-4(1), Patna
<i>(Appellant)</i>		<i>(Respondent)</i>
PAN: AWQPS3847R		

Appearances:

Assessee represented by : Sudeep Sinha, Adv.

Department represented by : Himanshu Kumar, JCIT.

Date of concluding the hearing : 17-September-2025

Date of pronouncing the order : 12-November-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 2014-15 dated 26.06.2023.

1.1. The Registry has informed that the appeal is barred by limitation by 558 days. The assessee has filed a petition for condonation of delay explaining the reasons that the order u/s 250 of the Act was never served upon the assessee nor on his e-mail and he was also not informed through SMS and, therefore, the appeal could not be filed in time. After perusing the same, we are satisfied that the assessee had a reasonable and sufficient cause and was prevented from filing the



instant appeal within the statutory 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 Learned CIT(A) has erred both in law and on facts.*
- 2. For that the claim of the Learned CIT(A) that the appellant has not made any compliance to the hearing notices throughout the course of first appeal proceedings is completely false and erroneous.*
- 3. For that the appellant submitted a ground-wise written submission along with supporting documents in response to the final hearing notice which was issued on 06.06.2023. The response was submitted on 12.06.2023 on e-Proceeding page of the Income Tax Portal but there is not a whisper of the said response in the impugned order.*
- 4. For that the Learned CIT(A) has erred in not deciding the case on merit which is against the principles of natural justice and therefore, the impugned order may be annulled.*
- 5. For that the assessment order itself was bad in law as the Ld. A.O. did not serve the mandatory notice u/s 143(2) of the Act during the course of assessment proceedings.*
- 6. For that the entire consideration received on sale of land has been invested over construction of the house well within the stipulated time before 31.07.2014 and therefore no capital gain is chargeable as per the provision of section 54 F of the I.T. Act, 1961.*
- 7. For that the Learned A.O. has taken the estimated cost of acquisition of the land at Rs.10,000 and the same has been deducted from the sale consideration without indexation, which is wrong.*
- 8. For that the Learned A.O. has wrongly computed the long - term capital gain at Rs.27,50,000 on sale of the land and therefore the same may be deleted.*
- 9. For that any other grounds, if any, may be urged at the time of hearing.”*

3. Brief facts of the case are that the assessee is an individual and during the year under consideration he had carried out financial transactions in landed property, therefore, the assessment was



reopened and the notice under section 148 of the Act was issued to the assessee on 12/02/2018, but the same was not complied with in time and the return was filed late. Subsequently, a notice under section 142(1) was also issued. The Ld. AO noted that the assessee had sold landed property on 22/10/2013 for ₹ 27,60,000/- to Shri Arvind Kumar, son of late Shri Shiv Prasad but the assessee had not paid any tax under capital gains on account of sale of landed property. Further, on perusal of the case record and the sale deed, the land was found to be situated within the municipal limits and was a capital asset. Therefore, deducting the estimated cost of acquisition of ₹10,000/- from the sale consideration of ₹ 27,60,000/-, the long-term capital gains was worked out at ₹27,50,000/-. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. CIT(A), who, vide the impugned order, dismissed the appeal as the assessee failed to respond to the notices issued for hearing.

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. It was submitted by the Ld. AR that the Ld. CIT(A) did not consider the written submission filed on 12/06/2023 against the notice of hearing issued on 06/06/2023, the due date for which was 12/06/2023. It was submitted that the Ld. CIT(A) had erred in not deciding the case on merits, which is against the principle of natural justice. It is mentioned in the grounds of appeal that even while making the best judgement assessment under section 144 of the Act, the Ld. AO should have considered the cost inflation index to arrive at the fair market value of the property as on 01/04/2001. The entire sale



consideration had been invested in the construction of house and therefore, no capital gains was chargeable as per the provisions of section 54F of the Act. As regards the delay in filing the appeal, it was submitted that the assessee was not aware that the appeal order had been passed. The Ld. DR relied upon the order of the appellate authority and requested that the same may be confirmed.

6. We have considered the rival submissions and have also gone through the facts of the case and the documents filed. We note that section 250(6) casts a duty on the Ld. CIT(A) to pass an order in appeal which should state the points for determination and a decision as well as the reason for arriving at such decision. We find that at both the stages of assessment order before the Ld. AO as well as before the Ld. CIT(A) in the appeal, proper representation was not made on behalf of the assessee. The Ld. AR requested that the matter may be remitted to the Ld. CIT(A) while the Ld. DR supported the order of the Ld. CIT(A). We note that in **Ajji Basha Vs. CIT (2019) 111 taxmann.com 348 (Madras)** it has been held that a speaking order on merits with reasons and findings is to be passed by Commissioner (Appeals) on basis of ground raised in assessee's appeal; he cannot dispose the assessee's appeal merely by holding that the Assessing Officer's order is a self-speaking order which requires no interference. It has also been held in the case of **Commissioner of Income-tax (Central) Nagpur v. Premkumar Arjundas Luthra (HUF) [2016] 69 taxmann.com 407 (Bombay)** after discussing the provisions of sections 250(1) and 251(1) that the law does not empower the CIT(A) to dismiss the appeal for non-prosecution as is evident from the provisions of the Act. Therefore, we deem it appropriate in the interest of justice and fair play that another opportunity needs to be provided to the assessee to represent his case



properly before the Ld. CIT(A). We, therefore, set aside the order of the Ld. CIT(A) and restore the appeal to him to be decided afresh, who shall allow an opportunity of being heard to the assessee and also grant an opportunity of representing the case and to be heard to the Ld. AO as per rule 46A of the Income Tax Rules, 1962, if required, and thereafter pass an order in accordance with law. For statistical purposes, the appeal of the assessee is partly allowed.

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

Order pronounced in the open Court on 12th November, 2025.

Sd/-

[Sonjoy Sarma]
Judicial Member

Sd/-

[Rakesh Mishra]
Accountant Member

Dated: 12.11.2025

Bidhan (Sr. P.S.)



Copy of the order forwarded to:

1. **Kripa Shanker, BAGH BHUP SINGH LANE, GULZARBAGH, ALAMGANJ CHOWKI, Patna, Bihar, 800008.**
2. **Income Tax Officer, Ward 4(1), Patna, .**
3. CIT(A)-NFAC, Delhi.
4. CIT-
5. CIT(DR), Patna Benches, Patna.
6. Guard File.

// True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata