



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

Before

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

ITA No.: 18/PAT/2025
Assessment Year: 2013-14

Lalmuni Devi (Appellant)	Vs.	ITO, Ward-6(5), Patna (Respondent)
PAN: AEEP8709B		

Appearances:

Assessee represented by : Pradeep Kr. Pandey, CA &
Sudhir Kr. Jha, AR.

Department represented by : Himanshu Kumar, JCIT.

Date of concluding the hearing : 17-September-2025

Date of pronouncing the order : 18-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 2013-14 dated 18.11.2024.

2. The assessee is in appeal before the Tribunal raising the following grounds of appeal:

"1. Section 48. Capital gain was wrongly calculated. My sale consideration was Rs. 6060816 while in assessment order it was wrongly calculated as Rs. 6402144.

2. Section 55. I have purchased land in year 1977 for Rs. 9500. However my cost of acquisition should be taken as lower of stamp duty value and



FMV as on 01-04-2001, which comes Rs. 3050000. And at the same time indexation was not allowed.

3. Cost of improvement. I incurred Rs. 200000 for sand filling, boundary wall etc. But my cost of improvement amount was completely ignored.

4. Section 234A. I filed my ITR for ay 2013-14 on time. Therefore interest u/s 234A should not be levied.

5. Section 234B. Since there was long term 5 capital loss so interest u/s 234B should not be levied”

3. Brief facts of the case are that the assessee is an individual and had not filed any return of income for the year under consideration despite entering into and registering a Land Development Agreement with House-Con Consultant & Developer during the FY 2012-13 relevant to the AY 2013-14. Therefore, the case was reopened u/s 147 of the Act and a notice u/s 148 of the Act was issued to the appellant. During the reassessment proceedings, the Assessing Officer (“the Ld. AO”) noted that the assessee received an amount of ₹29,40,000/- as part of the Joint Development Agreement and total value of the consideration as per Stamp Duty Value was ₹64,02,144/-. Therefore, the Ld. AO assessed the total income u/s 144 r.w.s. 147 of the Act by making an addition under the head capital gains of Rs.64,02,144/- as per the provisions of section 50C of the Act. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. CIT(A) who dismissed the appeal as per his findings as under after considering the written submission:

“4. During the course of appellate proceedings, the appellant has filed written submissions. All the submissions filed by the appellant have been carefully perused and taken into consideration while disposing the present appeal.

5. The matter has been carefully considered. It could be seen from the facts that in this appeal Ground No. 1 to 4 pertain to the single issue of addition of capital gain of Rs.64,02,144/- by following the provisions of Section 50C of the Act and the same is adjudicated as under:-



5.1. On receipt of information under section 133(6) of the Act in terms of copies of land development agreement, it was found that the assessee entered into and registered a Land Development Agreement with House-Con Construction & Developer during the FY 2012-13 relevant to the AY 2013-14. On perusal of the land development agreement entered into by the assessee on 14/08/2012, it was noted that the assessee and the developer have agreed to the development agreement where full share of 49% of the total land area of 4355.20 Sq.ft owned by the assessee will be constructed upon by the land developer. The share of the constructed building to be owned by the assessee is 5335.12 Sq.ft encompassing total floor area of 10888 Sq.ft. As per land development agreement registered, the total value of land was Rs.60,00,000/- and the value of share owned by the assessee at full share of 49% of land owned by the assessee stands at Rs.29,40,000/- However the assessee did not file any return of income and hence failed to offer capital gain to taxation. Therefore the case was reopened u/s 147 of the Act and notice u/s 148 of the Act was issued to the appellant The assessee did not file any return of income in response to notice issued u/s 148 of the Act. During the assessment proceedings, the AO noted that the appellant received an amount of Rs.29,40,000/- as part of Joint Development Agreement and total value of consideration as per Stamp Duty Value was Rs.64,02,144/- thereby attracting the provisions of section 50C of the Act. Therefore the AO passed the assessment order u/s 144 r.w.s. 147 of the Act by making addition of capital gain of Rs.64,02,144/- as per provisions of section 50C of the Act.

5.2. During the appellate proceedings, the appellant claimed that although the land development agreement was entered into and registered during the FY 2012-13, the actual possession of the property was received from developer only in subsequent years and hence question of capital gain does not arise at all for the year under consideration.

It is to be noted here that the capital gains should be recognized in the financial year in which the development agreement was executed and registered. It is observed that the provisions of the Transfer of Property Act, 1882, particularly Section 53A & 54, emphasize that the transfer of immovable property is effective upon the execution of a registered document, even if physical possession is handed over later. It is noted that the registration of the land development agreement in FY 2012-13 established the date of transfer for tax purposes, and the valuation under Section 50C of the Income Tax Act should be applied based on this registered date.

In view of the facts discussed above, it is noted that the appellant entered into and registered the joint development agreement during the FY 2012-13 and failed to offer to tax the capital gain arising out of this transaction. Hence I reject the contention of the appellant and confirm the addition of Rs.64,02,144/- on

account of capital gain u/s 50C of the Act. Accordingly, Ground No. 1 to 4 are dismissed.

6. In the result, the appeal is dismissed.”

4. Thus, the appeal was dismissed. 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 before the Ld. CIT(A), the assessee had taken the following grounds of appeal:

"1. Total super build area taken by A.O. 10888 sqft but as per PRDA/PMC map approved total super build are shall 10307.52 sqft thus difference of 580.48 sqft arises to calculate sale consideration.

2. the indexed cost of land taken by A.O. value NIL but as per FMV as on 2001 as base year should be 3250000 and indexed cost of land as on F.Y. 2012-13 Rs. 6500000

3. NIL cost of improvement taken by A.O. but as per valuation report cost of improvement taken Rs 200000.

4. As per JDA the projects should complete in all respect within 2 years 6 months from date of approval of PRDA/PMC Map approval but it still work in progress this date."

6. The Ld. AR submitted that no benefit of indexation was given while computing the capital gains. The assessment order was *ex parte* and no proper opportunity was provided by the Ld. AO. As per the Ld. AR, the Ld. CIT(A) also did not adjudicate the ground relating to indexation benefit and the addition was made by invoking section 50C of the Act for the Joint Development Agreement (JDA). The assessee had received



total sale consideration of ₹ 64,02,144/- and the entire sale proceeds were added without allowing the cost of acquisition of the land. The Ld. DR relied upon the order of the appellate authority and requested that the same may be confirmed.

7. We have considered the facts of the case, the submissions made and the documents filed. The assessee as per law was required to be allowed the cost of acquisition after giving the benefit of indexation, which has not been done by the Ld. CIT(A), even though a specific ground in this regard was raised in the appeal by the assessee. Therefore, in the interest of justice, the order of the Ld. CIT(A) is hereby set aside and the matter is remanded to the Ld. AO to consider the evidence relating to the cost of acquisition and, thereafter, deduct the indexed cost of acquisition and the cost of improvement from the sale consideration received and thereafter compute the capital gains as per law after the assessee furnishes necessary evidence in support of the cost of acquisition and the cost of improvement. Hence, the grounds of appeal are partly allowed for statistical purposes.

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

Order pronounced in the open Court on 18th November, 2025.

Sd/-

[Sonjoy Sarma]
Judicial Member

Sd/-

[Rakesh Mishra]
Accountant Member

Dated: 18.11.2025

Bidhan (Sr. P.S.)



Copy of the order forwarded to:

1. **Lalmuni Devi, Opp B/64, Sai Gali Budha Colony, Patna, Bihar, 800001.**
2. **ITO, Ward-6(5), 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