

**IN THE INCOME TAX APPELLATE TRIBUNAL "PATNA" BENCH, PATNA**

**BEFORE SHRI DUVVURU RL REDDY, VP  
AND  
SHRI RAJESH KUMAR, AM**

**ITA No.70/PAT/2025  
(Assessment Year:2016-17)**

**Dharmavir Kumar**  
C/o Naseeb Prasad,  
PaithaniNathpur,Narayan Chak,  
Phulwari.  
Bihar-800002  
**(Appellant)**

**Vs.**

**DC/ACIT, Circle-4,**  
Income Tax Department, Lok  
Nayak Jai Prakash Bhavan, New  
Dak Bunglow Road,  
Patna-800001, Bihar  
**(Respondent)**

**PAN No. AVZPK4382P**

**Assessee by** : Shri Sudeep Sinha, AR  
**Revenue by** : Shri Md. A.H. Chowdhary, DR

**Date of hearing:** 26.11.2025  
**Date of pronouncement:** 09.12.2025

**ORDER**

**Per Rajesh Kumar, AM:**

This is an appeal preferred by the assessee against the order of the National Faceless Appeal Centre, Delhi (hereinafter referred to as the "Ld. CIT(A)") dated 18.12.2024 for the AY 2016-17.

2. The assessee has raised following grounds of appeal:-

"1. For that the Ld. CIT(A) has erred both in law and on facts.

2. For that the Ld. CIT(A) has erred in confirming the addition of compensation of Rs.4,71,91,650 in the hands of the appellant u/s 50C of the Income Tax Act, 1961 under the head capital gains.

3. For that section 50C is not a charging section. It simply says what would be the full consideration for the purpose of section 48 of the Income Tax Act, 1961 to compute the income chargeable under head capital gains.

4. For that section 48 is the charging section and section 50C is just procedural in nature as to what would be the full value of consideration for the purpose of section 48

of the Act and therefore, the Ld. CIT(A) is wrong in justifying the addition made under section 50C of the I.T. Act, 1961.

5. For that in case of compulsory acquisition of a capital asset being land or building or both, the provisions of Section 50C cannot be applied as the question of payment of stamp duty for effecting such transfer does not arise. In the instant case, the property was acquired under the provisions of the National Highways Act 1956. The property vests by operation of the said statute and there is no requirement for payment of stamp duty in such vesting of property.

6. For that the appellant has not sold the property but rather it was compulsorily acquired by the Government for construction of road under National Highway Act, 1956. The compensation received on compulsory acquisition could not be the capital gain u/s 48 of the I.T. Act, 1961.

7. For that the land was acquired as per notification of Ministry of Road Transportation and National Highway, New Delhi dated 14.01.2013 which was published in the Gazette of India by the District Land Acquisition Officer, Patna for construction of four lane National Highway 30 - 84, Patna Buxar. As per the copy of the order sheet of District Land Acquisition Officer, Patna it may be seen that the acquired land was agricultural land.

8. For that the agricultural land situated in the village Nathupur, Phulwari, Patna belonging to the appellant was compulsorily acquired for construction of National Highway as notified in the Gazette of India dated 14.01.2013 and the compensation of Rs.4,71,91,650 so received, is exempt from Income tax as clarified by the CBDT vide its circular no.36 of 2016 which says that compulsory acquisition of land under the RFCTLARR Act, 2013 is exempt from Income tax under section 96 of the RFCTLARR Act and therefore, the Ld. CIT(A) has erred in confirming the addition made under section 50C of the I.T. Act, 1961.

9. For that from the perspective of computing capital gain according to general provisions of the Act, the capital gains shall be computed as per section 48 by deducting from the full value of consideration received or accruing as a result of the transfer of the capital asset, the expenditure incurred in connection with such transfer and the cost of acquisition of the asset and the cost of any improvement thereto. In the present case, the land acquired, was purchased by the father and uncles of the appellant and therefore, the Ld. CIT(A) has erred in not deducting the cost of acquisition as per section 49 of the I.T. act, 1961 and taking the entire consideration received from the Government as the capital gain and taxing the same in the hands of the appellant.

10. For that the appellant craves leave to add or amend the grounds of appeal before the appeal is finally heard or disposed of."

2.1. The facts in brief are that the assessee filed the return of income on 04.03.2017, declaring a total income of Rs.12,40,390/-. The case of assessee was selected for scrutiny and accordingly, assessment

was framed under Section 143(3) of the Act vide order dated 09.10.2018, accepting the returned income. Thereafter, the learned PCIT revised the assessment under Section 263 of the Act, by directing the learned Assessing Officer to frame the assessment denovo. Accordingly, the notices were issued to the assessee calling upon the assessee to submit the details/documentary evidences in respect of source of income which was replied by the assessee. It was submitted before the learned Assessing Officer that assessee received compensation of ₹4,71,91,650/- for compulsory acquisition of agriculture land under the provisions of the National Highways Act, 1956 and TDS was also deducted under Section 194LA of the Income-tax Act, 1961 (the Act). Though the assessee claimed the income to be exempt under Section 10(37) of the Act. However, no evidences were produced before the learned Assessing Officer. Finally, the learned Assessing Officer added the same on the ground that no documentary evidences were filed to substantiate the claim under Section 37 of the Act and made the addition of ₹4,71,91,650/- to the income of the assessee in the assessment framed.

2.2. In the appellate proceedings, the learned CIT (A) dismissed the appeal of the assessee. The learned CIT (A) did not adjudicate the issue by admitting the documents filed by the assessee as additional evidences under Rule 46A of the Income Tax Rules, 1962 and thus dismissed the appeal of the assessee.

2.3. After hearing the rival contentions and perusing the materials available on record, we find that the assessee owned an agricultural land situated in the village Nathupur, Phulwari, Patna, which was acquired by the Ministry of Road Transport, National Highway, New Delhi, vide notification dated 14.01.2013, which was published in the

Gazette of India by the District Land Acquisition Officer, Patna, for construction four lane National Highway 30-84, Patna Buxar. As per the copy of order sheet of District Land Acquisition Officer, Patna, that acquired land was agricultural land. The assessee was awarded compensation of ₹4,71,91,650/- for acquisition of the said land. According to the assessee, RFCTLARR Act, 2013, is a special Act, which is applicable to all kind of acquisition under National Highway Act, 1956 effective from 01.01.2015 as confirmed by the Ministry of Road and Transport and Highway, through notification no.28.12.2017, stating that RFCTLARR Act, 2013, have been applicable to all land acquisition cases under the National Highways Act, 1956, with effect from 01.01.2015.

2.4. That in order to provide clarity, the CBDT through its Circular No. 36/2016 issued on 25.10.2016 reiterating that compensation received in respect of award or agreement which is exempt from levy of income tax vide section 96 of RFCTLARR Act and shall also not be taxable under the provisions of Income Tax Act, 1961. That while allowing exemption from income tax under section 96 of RFCTLARR Act, 2013 it does not matter whether the land is agricultural or non-agricultural. The provisions of section 96 of the said Act is wider in scope and does not make any distinction between compensation received for compulsory acquisition for agricultural land and non-agricultural land in the matter of providing exemption from income tax. That a copy of the Gazette notification issued by the Ministry of Road Transport & Highways notifying, the list of lands, including the land of the appellant, to be compulsorily acquired under the National Highways Act, 1956 is available in the paper book. Therefore, when the land has been clearly acquired under the NH Act, 1956, the provisions of RFCTLARR Act, 2013 will be applicable, as explained in the

foregoing points, and as such exemption from income tax must be extended to the appellant.

2.5. We have also perused the CBDT circular, copy of which is available at page no.31 of the Paper Book, which is extracted below: -

"

*ITA.II division, North Block,  
New Delhi, the 25th of October, 2016*

*Subject: Taxability of the compensation received by the land owners for the land acquired under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ('RFCTLAAR Act')-reg*

*Under the existing provisions of the Income-tax Act, 1961 ('the Act'), an agricultural land which is not situated in specified urban area, is not regarded as a capital asset. Hence, capital gains arising from the transfer (including compulsory acquisition) of such agricultural land is not taxable. Finance (No. 2) Act, 2004 inserted section 10(37) in the Act from 01.04.2005 to provide specific exemption to the capital gains arising to an Individual or a HUF from compulsory acquisition of an agricultural land situated in specified urban limit, subject to fulfilment of certain conditions. Therefore, compensation received from compulsory acquisition of an agricultural land is not taxable under the Act (subject to fulfilment of certain conditions for specified urban land).*

*2. The RFCTLARR Act which came into effect from 1st January, 2014, in section 96, inter alia provides that income-tax shall not be levied on any award or agreement made (except those made under section 46) under the RFCTLARR Act. Therefore, compensation received for compulsory acquisition of land under the RFCTLARR Act (except those made under section 46 of RFCTLARR Act), is exempted from the levy of income-tax.*

*3. As no distinction has been made between compensation received for compulsory acquisition of agricultural land and non-agricultural land in the matter of providing exemption from income-tax under the RFCTLARR Act, the exemption provided under section 96 of the RFCTLARR Act is wider in scope than the tax-exemption provided under the existing provisions of Income-tax Act, 1961. This has created uncertainty in the matter of taxability of compensation received on compulsory acquisition of land, especially those relating to acquisition of non-agricultural land. The matter has been examined by the Board and it is hereby clarified that compensation received in respect of award or agreement which has been exempted from levy of income-tax vide section 96 of the RFCTLARR Act shall also not be taxable under the provisions of Income-tax Act, 1961 even if there is no specific provision of exemption for such compensation in the Income-tax Act, 1961.*

*4. The above may be brought to the notice of all concerned.*

5. Hindi version of the order shall follow.

Sd/-  
(Rohit Garg)

Deputy Secretary to the Government of India”

2.6. We find from the perusal of the said circular no.36/2016 dated 25.10.2016, that the compensation received for compulsory acquisition of land under RFCTLAAR Act is exempted from levy of income tax which has been stated in Para no.2 of the said circular, extracted above. Though the income is exempt in the hands of the assessee but since the Id. AO has not examined the issue, we are therefore returning the matter back to the AO to examine and allow the same. The appeal is allowed for statistical purposes.

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

Order pronounced in the open court on 09.12.2025.

Sd/-  
(DUVVURU RL REDDY)  
(VICE PRESIDENT)

Sd/-  
(RAJESH KUMAR)  
(ACCOUNTANT MEMBER)

Patna, Dated: 09.12.2025

Sudip Sarkar, Sr.PS

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent
3. CIT
4. DR, ITAT,
5. Guard file.

BY ORDER,

True Copy//

sSr. Private Secretary/ Asst. Registrar  
Income Tax Appellate Tribunal, Patna