

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

Before

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

**ITA No.: 341/PAT/2025
Assessment Year: 2016-17**

| | | |
|---------------------------------------|-----|--|
| Raj Kumar Singh (Appellant) | Vs. | ITO, Ward-6(4), Patna (Respondent) |
| PAN: CQAPS5076G | | |

Appearances:

Assessee represented by : None.

Department represented by : Ashwani Kr. Singal, JCIT.

Date of concluding the hearing : 15-October-2025

Date of pronouncing the order : 30- December-2025

ORDER

PER RAKESH MISHRA, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as "the Ld. CIT(A)] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for AY 2016-17 dated 07.10.2024.

1.1 The Registry has informed that there is a delay of 224 days in filing of this appeal, which has been requested to be condoned by the assessee by an application for condonation of delay as under:

"Most respectfully the petitioner be get to stay as under; The impugned assessment order was served on the appeal by 07-10-2024, limitation for filing the appeal was upto 06-12-2024. The appeal could not be filed within the stipulated period due to family issues with the appellant, he was disturbed and consequently he lost the contact with the person who had filed the first appeal so he could not received any update about the order of the appellate authority.



Since notices were mainly received through the portal and email, but appellant had no access to his email as a result he was unaware of the notices and could not respond in a timely manner.

It is therefore humbly prayed that the delay in filing the appeal by 224 days may kindly be condoned and the appeal may kindly be allowed to be proceeded with.

And for this the appeal shall ever pray.”

1.2 On going through the petition, we are satisfied that the assessee had a sufficient and reasonable cause for the delay; therefore, the delay is condoned and the appeal is admitted for adjudication.

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

“1. For that the Commissioner of Income-tax (Appeals), National Faceless Appeal Center, Delhi, [the CIT(A)] erred on facts and in law in dismissing the appeal filed by the appellant by confirming the assessment order passed by the Commissioner of income tax ITO WARD 5(1), PATNA (the A.O), assessing the appellant under section 144 r.w.s. 147 of the Income tax Act, 1961, ('the Act') at an income of Rs 2,48,24,480/- against returned income of Rs 3,24,230/-

2. For that the learned has erred in the facts and circumstances of the case in arbitrarily confirming addition of Rs 2,45,00,250/- under the heads as detailed under, which is wrong, illegal and unjustified;

| Sl. No. | Particulars | Amount (Rs.) | Amount(Rs.) |
|---------|--|---------------|-------------|
| A | Returned Income | 3,24,230/- | |
| | Addition on presumption basis treated as non agriculture Income during the year. | 2,45,00,250/- | |
| B | Assessed Income R/o | 2,48,24,480/- | |



3. For that the learned CIT(A) has erred in confirming the action of the AO in treating the amount of Rs 2,45,00,250/- as suspiciously making addition on the basis of Joint Development Agreement. The assessment is erroneous, illegal, and unsupported by evidence.

4. For that the Hon'ble CIT (A) has erred in not allowing proper opportunity of being heard which is arbitrary, wrong, illegal and unjustified.

5. For that the Hon'ble CIT (A) has erred in not taking cognition of the submissions filed by the appellant before him.

6. That the whole order passed by the CIT (A) is bad in facts and law. That the appellant craves leave to add, alter, amend, or vary the above grounds of appeal at or before the time of hearing.”

3. Brief facts of the case are that on receipt of information under section 133(6) in terms of copies of land development agreement, it was found by the Assessing Officer (“the Ld. AO”) that the assessee Shri Raj Kumar Singh had entered into and registered a Land development agreement (“JDA”) with M/s Singh Engicon (India Pvt. Ltd.) in the financial year 2015-16 relevant to the assessment year 2016-17. On perusal of the land development agreement entered into by the assessee on 22/08/2015, it was noted by the Ld. AO that the assessee and the developer had agreed to the development arrangement where the total land area of 13,066.8 sq.ft. owned by the assessee would be constructed upon by the land developer. In terms of the land development agreement, the share of constructed building to be owned by the assessee was 16,333.5 sq.ft. encompassing total floor area of 32,667 square feet. As per the land development agreement registered, the total value of Land was ₹ 2,97,00,000/-. As a bundle of ownership rights over his share of land was relinquished by the assessee in terms of the land



development agreement and as the terms of the land development agreement as well as the facts of the case attracted provisions of section 53A of the Transfer of Property Act, the capital gains arising out of such transfer attracted provisions of sections 2(47)(v), 45 and 48 of the Income Tax Act, 1961. As the assessee had not filed any return of income, the proceeding under section 147 of the Income Tax Act, 1961 ("the Act") were initiated by issuing notice under section 148 of the Act. Since there was no compliance by the assessee, the total income was assessed at ₹77,72,460/- vide order under section 144 r.w.s. 147 of the Act and capital gains was assessed. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. CIT(A) who dismissed the appeal on account of non-prosecution as the assessee failed to comply with 7 notices issued for hearing nor the assessee attempted to file any documents, evidences and explanation in support of the grounds of appeal and all the grounds of appeal were dismissed on merits, as is mentioned.

4. Aggrieved with the order of the Ld. CIT(A), the assessee has filed the appeal before the Tribunal.

5. None appeared on behalf of the assessee, therefore, the appeal was heard with the assistance of the Ld. DR. The Ld. DR relied upon the order of the Ld. CIT(A) and requested that the same may be upheld.

6. We have considered the submissions made by the Ld. DR, gone through the facts of the case and perused the record and the order of the Ld. CIT(A). The assessment order was made under section 144 of the Act r.w.s. 147 of the Act as the assessee failed to furnish any details and total value of consideration of the property worked out was treated as the sale consideration and in the absence of any details, the indexed



cost of land was taken at ₹ Nil. Even before the Ld. CIT(A), no details were filed and the appeal was decided *ex parte*. We note that section 250(6) of the Act casts a duty upon 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. 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. Since there was no proper compliance before both the Ld. AO as well as the Ld. CIT(A), in the interest of justice and fair play it was considered that one more opportunity of being heard may be provided. Hence, after examining the facts of the case, we deem it appropriate to set aside the order of the Ld. CIT(A) and remand the matter to the Ld. AO for making the reassessment *de novo*. Needless to say, the assessee shall be given a reasonable opportunity of being heard to make any further submission it wants to make in support of the relief claimed and shall not seek unnecessary adjournments else the Ld. AO may draw



adverse inference. Accordingly, the grounds taken by the assessee in this appeal are partly allowed for statistical purposes.

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

Order pronounced in the open Court on 30th December, 2025.

Sd/-

[Sonjoy Sarma]
Judicial Member

Sd/-

[Rakesh Mishra]
Accountant Member

Dated: 30.12.2025

Bidhan (Sr. P.S.)



Copy of the order forwarded to:

1. **Raj Kumar Singh, Bichli Gali Khajpura Bailey Road, Patna, Bihar, 800014.**
2. **ITO, Ward-6(4), Patna.**
3. CIT(A)-
4. CIT-
5. CIT(DR), Patna Benches, Patna.
6. Guard File.

// True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata