

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“SMC” BENCH”, PATNA**  
**(VIRTUAL HEARING AT KOLKATA)**

**SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

ITA No. 491/PAT/2025
Assessment Year : 2015-16

<b>Rakesh Kumar,</b> 18 Road No. 5 East Patel Nagar, Patna – 800023, Bihar [PAN: ANQPK4418B]	Vs.	<b>Income Tax Officer,</b> <b>Ward 6(2), Patna</b>
APPELLANT		RESPONDENT

Assessee by	:	Sh. Atul Dayal, Adv.
Revenue by	:	Sh. Manab Adak, JCIT

Date of hearing	:	15.01.2026
Date of Pronouncement	:	20.01.2026

**ORDER**

This is an appeal filed by the assessee against the order passed u/s 250 of the Income Tax Act, 1961 (hereafter “the Act”) by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereafter “the Ld. CIT(A)] dated 24.08.2025, DIN & order No. ITBA/NFAC/S/250/2025-26/1080135583(1).

2. Briefly stated the facts of the case are that the assessee engaged in real estate business to obtain development rights from land owners by entering into the Land Development Agreement (LDA) between owner of the land and its developers to construct immovable property in terms of building and land appurtenant thereto. The rights of ownership of the

land is transferred by the land owner against receipt of ownership of a portion of property constructed while remaining portion of the constructed property is apportioned by the builder against the cost of development incurred by the developer. The assessee filed return of income at Rs. 3,06,294/- and the case was reopened u/s 147/148 of the Act. In response to the notice u/s 148 of the Act she did not file any return of income and various other opportunities were provided to the assessee but there was no response. Therefore, the AO on the basis of material available before him computed the income at Rs. 20,24,862/- as LTCG and passed order u/s 144 on 26.11.2019.

3. Aggrieved from the above order, the assessee filed appeal before the Ld. CIT(A) with a delay of 438 days and reasons was also explained. The Ld. CIT(A) did not entertain the condonation application and rejected the explanation submitted by the assessee. The Ld. CIT(A) noted that the assessee filed condonation petition with a delay of 21 days in form of letter only without support of any affidavit and noted that the date of order is 26.11.2019. However, the assessee claimed to be service of order is 15.02.2021 in the form 35 and assessee has not demonstrated how the assessee found assessment order. Considering the reasons given therein and he dismissed the appeal of the assessee for not condoning the delay without going into the merits of the case.

4. Aggrieved from the above order, the assessee is in appeal before the ITAT.

5. The Ld. Counsel reiterated the reasons given for delay in filing the appeal before the Ld. CIT(A) and submitted that the Ld. CIT(A) has not condoned the delay and he further submitted that notice issued by the AO was not received by the assessee and the intention of the assessee was not to disrespect the notices issued by the revenue authorities and he submitted that Covid-19 pandemic was started in the area of the

residence of the assessee therefore, the assessee could not file the return of income within the stipulated period and requested that one more opportunity granted to the assessee.

6. The Ld. DR relied on the order of lower authorities.

7. Considering the rival submissions and perusing the material available on record and order of authorities below. I noted that the reassessment was completed u/s 144/147 of the Act for non-cooperation from the assessee's side and appeal was filed with a delay of 438 days before the Ld. CIT(A) which was not condoned. Considering the submission of the Ld. counsel and in the interests of justice, I remit this issue get to the file of AO for denovo decision as per law after giving a reasonable opportunity of being heard to the assessee and the assessee is directed to substantiate its case with cogent documents in support of the case and not to seek any unnecessary adjournments for early disposal of the case. We make it clear that in case of failure no second leniency shall be granted to the assessee.

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

Order pronounced on 20.01.2026

Sd/-  
**(Laxmi Prasad Sahu)**  
**Accountant Member**

Dated: 20.01.2026  
AK, Sr. P.S.

*Copy of the order forwarded to:*

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

//True copy//

By order

Assistant Registrar, Kolkata Benches