

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

[Virtual Court]

Before

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

**ITA No.: 378/PAT/2025
Assessment Year: 2015-16**

Vidyotma (Appellant)	Vs.	ITO, Ward-2(1), Sitamarhi (Respondent)
PAN: AGUPV2714Q		

Appearances:

Assessee represented by : None.

Department represented by : Ashwani Kr. Singal, JCIT.

Date of concluding the hearing : 06-January-2026

Date of pronouncing the order : 28-January-2026

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 2015-16 dated 28.05.2025.

1.1. The Registry has informed that the appeal is barred by limitation by 20 days. The assessee has filed a petition for condonation of delay explaining the reasons as under:

"We enclose herewith an appeal u/s 253 of the I.T. Act 1961 against the order under section 250 of the Income Tax Act, 1961, relating to assessment year 2015-16 on the 28-05-2025. Through this appeal should have been filed on or before 27/07/2025.

That I, due to illness irregular to open the e-mail and not showing I.T. Portal. As and when I saw my portal thereafter, I am filing my appeal.



Under the abovementioned facts and circumstances your goodself is requested to condone the said delay and to hear the appeal on merits.

What are stated above are true to best of my information and belief.

We therefore pray that delay in filing the appeal should be condoned and it should be treated as filed within the allowed time.”

1.2 After perusing the petition, 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 Grounds of Appeal hereto are without prejudice to one mother.

2) For that in the facts and circumstances of the case ld. CIT(A) is not justified in not giving proper time to substantiate its claim which is violative of principal of natural justice.

3) For that the learned CIT(A) is not justified in confirming the addition of Rs.89,31,552/- under the head long term capital gain.

4) For that the entire assessment order is bad both in law and facts of the case,

5) For that the initiation of penalty proceedings u/s 271(1)(c) of the I.T. Act, 1961 is arbitrary, unjustified, void, ab-initio and bad in laws”

3. Brief facts of the case are that the assessment was reopened on the basis of information available from the office of the Registrar of properties in Patna District. The Assessing Officer (hereinafter referred to as Ld. 'AO') noticed that the assessee had entered into a registered land development agreement with Shri Hanumante Namah Homes, Boring Road, Patna (The Developer), in the FY 2014-15 relevant to the AY 2015-16 under the terms and conditions laid down that the rights of ownership of the land were transferred by the Land Owner against



receipt of ownership of a portion of constructed property while the remaining portion of the constructed property was apportioned by the builder against the cost of the development incurred by the developer. As per the registered land development agreement, the total value of the land was ₹1,23,05,000/- and the consideration amount of assessee, Smt. Vidyotma Devi as per the registered land development agreement was ₹61,52,500/- and no capital gains tax was paid on account of this development agreement. Therefore, the capital gains arising out of this agreement of development valued at ₹61,52,500/- had escaped assessment. The Ld. AO assessed the total income of the assessee at ₹89,31,552/- u/s 144 r.w.s. 147 of the Act after following the prescribed procedure. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. CIT(A) who, vide order dated 28.05.2025, considered the assessment order, submissions made by the assessee and by relying upon the decision of Hon'ble Karnataka Court in the case of **Estate of the K Dayalu (ITA No.3209 of 2005 ITA No.3165 of 2005)** held that the Ld. AO had correctly assessed the income in the relevant assessment year and the appeal of the assessee was dismissed.

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 and the case was heard with the assistance of the Ld. DR. It was submitted by the Ld. DR that the assessment order was made u/s 144 read with section 147 of the Act. It was stated that as per section 53A of the Transfer of Property Act, the Ld. AO treated the transaction as a transfer. Our attention was drawn to page 1 para 1.2 of the order of the Ld. CIT(A) in which it is mentioned that no details were filed nor any adjournment was sought.



It was submitted that the assessee was in receipt of money, and the assessment order was issued at Patna address by the Ld. AO while the assessee resided at Sitamarhi which resulted in the delay in filing the appeal before the Ld. CIT(A). The written submission was filed by the assessee before the Ld. CIT(A) as per page 10 of the appellate order. It has been requested in the ground of appeal that the Ld. CIT(A) was not justified in not giving proper time to substantiate the claim of the assessee, which is violative of the principles of natural justice. 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 facts of the case, the submissions made by the Ld. DR and the documents filed. Since there was no proper compliance before both the Ld. AO as well as before 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 to the assessee as the assessee was residing in Sitamarhi while the assessment order and the notices were served at the Patna address and so proper compliance could not be made. The Ld. AO has also not allowed any cost of acquisition to the assessee while calculating the capital gains, which is not as per law as indexed cost of acquisition has to be allowed while computing capital gains. 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 back 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. Accordingly, all 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 purposes.

Order pronounced in the open Court on 28th January, 2026.

Sd/-

[Sonjoy Sarma]
Judicial Member

Sd/-

[Rakesh Mishra]
Accountant Member

Dated: 28.01.2026

Bidhan (Sr. P.S.)



Copy of the order forwarded to:

1. **Vidyotma, Dhirchak, Anishabad, Patna, Bihar, 800002,**
2. **ITO, Ward-2(1), Sitamarhi.**
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