

**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.: 311/PAT/2025
Assessment Year: 2023-24**

Gyasuddin Mohammad Ansari <i>(Appellant)</i>	Vs.	ITO, Ward-3(3), Purnea <i>(Respondent)</i>
PAN: AJMPA0351R		

Appearances:

Assessee represented by : Ravi Sah, AR.

Department represented by : Md. A H Chowdhury, CIT (DR).

Date of concluding the hearing : 05-January-2026

Date of pronouncing the order : 29-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 2023-24 dated 04.06.2025.

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

"1. For that the Ld. CIT(A) erred in rejecting the cost of Acquisition of Property received through "Panchnama Batwara" on the basis of MVR Rate for the year as a Government portal downloaded from the "Bhoomi Jankari-Bihar" portal containing the MVR for the area in which the Property transferred was situated.

2. For that the Ld. CIT(A) has erred in estimating the Indexed Cost of acquisition at Rs.20.00 lakhs without stating the basis for the same and



which is in sharp contrast to the MVR prescribed by the Government of Bihar for that area.”

3. Brief facts of the case are that the assessee had filed the return of income showing total income of ₹ 549,840/-, which was selected under scrutiny on the ground of deduction from total income under Chapter VI-A of the Act. A sum of ₹ 51,00,000/- was claimed as a deduction on account of interest on loan taken for higher education under section 80E of the Act. The assessee pointed out the error in the return of income are mentioned in the deduction under section 80 E had been wrongly claimed. In fact, the assessee had sold a commercial is of land and furnish the working of capital loss of ₹ 240,000 and relied upon the decision of the Honourable Supreme Court in the case of gets a (India) Ltd vs CIT. The AO did not accept the contention of the assessee as according to him, there is no provision under the act to make amendment in the return of income by modifying an application of the search assessments a without providing the written and the total income was assessed at ₹ 56,89,840/-.

4. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. CIT(A) who partly allowed the appeal by holding as under:

“5. Appellate findings

5.1 I have carefully considered the facts of the case, grounds of appeal, assessment order and submission of the appellant. The appellant had raised three grounds of appeal which are adjudicated as below.

5.2 Ground Nos. 1& 2:- Vide these grounds appellant has agitated against the action of AO in rejecting the appellant's claim that the consideration of Rs.48,68,000/- should be assessed under Capital Gain and not under 'Income from Other Sources' and should have accepted the appellant's calculation of long term capital loss arising from sale of property amounting to Rs.2,17,363/- . The appellant has no objections to the disallowance the Rs.51,00,000/- deduction claimed u/s 80E of the Act and only questions the fact that the AO's



action of non-consideration of the above request to treat the receipts as capital gain/loss.

5.2.1 The appellant claims that he should not be penalized for inadvertently and mistakenly choosing a wrong head of income for offering the receipts from the sale of land and the AO was not justified in taking such action which arose merely because of the ignorance of the appellant. I agree with the contention of the appellant that once the AO has accepted that the said receipts are proceeds of sale of land and not Income from other sources, the said benefit should not have been denied by the AO as stated by him in the assessment order, merely because of the fact that it was inadvertently offered under a wrong head. The appellant has submitted the working of capital loss as given below

Sale consideration - Rs 48,68,000/

Less: Indexed cost of acquisition - Rs 50,85,363/

Long Term Capital Loss - Rs (-)2,17.363/

5.2.2 However, the problem with the above claim is that appellant has not been able to show any concrete basis for claiming the cost of acquisition at Rs.2,40,000/- per decimal for the FY 2016-17. The appellant has been able to show that the land came under his ownership vide a deed of partition dated 30.11.2016 but has not been able to substantiate the basis for taking the above cost of acquisition. The appellant has apparently enclosed a paper showing some rates allegedly for Purnia Municipal Corporation for FY 2016-17. But, the source of credibility of the said document has not been established by the appellant. The appellant has not even bothered to indicate the source from where this document, which he claims to establish the cost of acquisition, has been procured from. In the absence of any basis for the claim of above cost of acquisition, I have no option but to estimate the same in the hand of the appellant. Considering the fact that it is an urban property sold in the FY 2022-23, after a small holding period of around 6 years, the value adopted by the appellant for FY 2016-17 appears to be on very higher side. I estimate the indexed cost of acquisition Rs.20,00,000/-. The AO is directed to work out the resultant long term capital gain and calculate the capital gain accordingly.

5.3 Ground No. 3:- This ground of appeal is general in nature, therefore does not require any specific adjudication. In the result, the appeal is partly allowed.”



4. Accordingly, the appeal was partly allowed. 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. In the course of the appeal before the Tribunal, the assessee has filed written submissions as under:

Ground No.1 For that the Ld. CIT(A) erred in rejecting the cost of Acquisition of Property received through "Panchnama Batwara" on the basis of MVR Rate for the year as downloaded from the "Bhoomi Jankari-Bihar" portal-a Government portal containing the MVR for the area in which the Property transferred was situated.

The Lr. CIT(A) vide para 5.2.2 of his Order held that reliability of the Document furnished in support of the claim of Cost of Acquisition at Rs.2,40,000 per Decimal for the F.Y.:2016-17 is not acceptable as neither the source of information has been disclosed nor credibility of the same has been established. In this connection the appellant humbly submits that the document furnished in support of cost of acquisition was a print out of MVR taken from the "Bhoomi Jankari -Bihar" Portal which is a government portal containing the MVR for the properties located in the state of Bihar. The Appellant to further dispel the doubts is now furnishing a certified copy of the MVR for the property as issued by the District Registrar, Purnea (P.B. Page No.05-06) which can dispel all doubts in the matter and provide a positive evidence to support the claim of the appellant.

Ground No.-02- For that the Ld. CIT(A) has erred in estimating the Indexed Cost of acquisition at Rs.20.00 lakhs without stating the basis for the same and which is in sharp contrast to the MVR prescribed by the Government of Bihar for that area.

The Lr. CIT (A) estimated the cost of acquisition on adhoc basis at Rs.20.00 lakhs vide Para 5.2.2 of his Order. The Only basis cited by Lr CIT(A) was that the property was sold after a small holding period of six years which does not itself provide any basis for determining the cost of acquisition at Rs.20.00 lakhs. Further, Sec. 55A provides for a reference to the Valuation Officer for determining the fair market value of property in case of dispute and he is the sole authority in the matter. Therefore, it is most respectfully submitted that cost of acquisition be allowed as per MVR as furnished by the appellant.



6. The Ld. DR relied upon the order of the Ld. CIT(A) and requested that the same may be upheld.

7. We have considered the submissions made, gone through the facts of the case and perused the record and the order of the Ld. CIT(A). the Ld. CIT(A) has not given any basis for taking the cost of acquisition at ₹ 2,000,000 which is purely on estimate basis whereas the assessee had filed document from the website of the Bhoomi Jaankari – Bihar portal. In case there was any doubt about the authenticity of the same, the same could have been examined, which has not been done. It was submitted that the documents submitted was noted by the Ld. CIT(A) without any basis. Hence, the appeal filed by the assessee is allowed and the Ld. AO is directed to allow the cost of acquisition as per the rates specified in the document filed by the assessee before the Ld. CIT(A) subject to verification from the concerned authority about the veracity of the same and take necessary action as per law as no basis has been given by the Ld. CIT(A) for the rate adopted. In case the same is found to be incorrect or misleading. Hence, both the grounds of appeal are allowed.

8. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open Court on 29th January, 2026.

Sd/-

[Sonjoy Sarma]

Judicial Member

Sd/-

[Rakesh Mishra]

Accountant Member

Dated: 29.01.2026

Bidhan (Sr. P.S.)



Copy of the order forwarded to:

1. **Gyasuddin Mohammad Ansari, 10, Kasba, S.O. (Purnia) Kadwa, Purnea, Bihar, 854333.**
2. **ITO, Ward-3(3), Purnea.**
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