

**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.: 516/PAT/2025
Assessment Year: 2014-15**

Madhu Devi	Vs.	ITO, Ward-2(3), Biharsharif
<i>(Appellant)</i>		<i>(Respondent)</i>
PAN: APNPD7034B		

Appearances:

Assessee represented by : Prasoon Kr., Adv.

Department represented by : Manab Adak, JCIT.

Date of concluding the hearing : 27-January-2026

Date of pronouncing the order : 30-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 2014-15 dated 11.10.2024.

1.1 The Registry has informed that the appeal is barred by limitation by 329 days. The assessee has filed a petition for condonation of delay explaining the reasons that the assessee had participated in the assessment proceedings and had also submitted the documents along with the audit report on Form No. 3CD. She has stated that the order had been passed u/s 148A(d) of the Act but no notice was issued u/s 148A of the Act. The assessee fell ill and was unable to move as she was advised complete bedrest. After recovery, the assessee took assistance of the Counsel and filed appeal before the ITAT. After perusing the application, 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 proceeding initiated under section 147/148 of the Income Tax Act is bad and illegal in view of the fact that the assessing officer has no reason to believe within the meaning of section 147 that the assessee has escaped income as the assessee has already disclosed the purchase value of land in the audited balance with source of purchase.

2. For that the assessing officer as well as Id. CIT Appeal has failed to construe that the assessee has disclosed the investment in land in the balance sheet in regular course and said disclosure was accepted by the assessing officer in the order under section 143 (1), therefore, reassessment proceeding in question is amount to review and based on change in opinion which is not permissible under the income tax act, as such, whole of the proceeding of re-assessment is bad and illegal and order passed on such illegal proceeding is also bad and without jurisdiction.

3. For that the order under challenge is otherwise bad and liable to quash and set aside as the assessing officer has not considered the document available on record with respect to investment made in landed property.

4. For that the addition of Rs.75,28,370/- is excessive and exonerated in view of the fact that as per the deed of purchase, the total amount of investment was Rs.49,00,000/- and the cost of stamp value was of Rs.6,35,370/-, total 55,35,370. Hence, addition made over and above is bad and illegal.

5. For that the assessing officer as well as Id. CIT Appeal failed to appreciate that the value of investment has been shown in the balance sheet and the said balance sheet was filed to the income tax portal along with return of income as such there is no escapement of income within the meaning of the Act.

6. For that the initiation of proceeding is barred by limitation because the re-assessment relate to the year for the assessment year 2014-15 but the notice has been issued on 31.03.2021 and the total amount of escaped income is less then 50 lakh on this ground also the re-assessment proceeding is illegal.

7. For that the CIT Appeal erred in remanding back the case to the assessing officer in view of the fact that the assessing officer has not responded the notice issued by the Id. CIT Appeal nor has submitted remand report in pursuance to direction issued by CIT Appeal.



8. For that the CIT Appeal as well as the assessing officer has failed to appreciate that the difference is stamp value and actual payment is less than 10 percent of value of land as such the value disclosed by assessee in balance sheet reasonable and as per law and also amendment regarding addition on account of difference has been made with effect from assessment year 2015-16 not for the present assessment year 2014-15.

9. For that the grounds taken herein above are not prejudicial to each other.

10. For that any other grounds may be taken at the time of hearing.”

3. Brief facts of the case are that the assessee is an individual and had filed the return of income u/s 139 of the Act showing total income of ₹4,26,800/- after making a claim of deduction of ₹1,15,000/- under chapter VI-A of the Income Tax Act. the Assessing Officer (hereinafter referred to as Ld. 'AO') had issued notice u/s 148 of the Act on the ground that the assessee had purchased immovable property for ₹75,28,370/- (stamp value of properties purchased plus the stamp duty and other fees) and since the assessee could not produce any documentary evidence explaining the source of the investment made by her, the Ld. AO treated the same as unexplained investment u/s 69 of the Act and added the same to the total income of the assessee and the assessment was made assessing the total income of the assessee at ₹79,55,170/-. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. CIT(A) who called for a remand report from the Ld. AO which was not provided till passing of the appeal order and the Ld. CIT(A) observed that the assessment order was passed without considering any of the sources of investment as submitted by the assessee during the course of appellate proceedings and accordingly, restored back the issues to the file of the Ld. AO for fresh assessment.

4. Aggrieved with the order of the Ld. CIT(A), the assessee has filed the appeal before the Tribunal. The Ld. AR submitted that both at the assessment stage as well as before the Ld. CIT(A), proper submission was not made. It was stated that the assessment order is illegal as the



income for the relevant assessment year is less than ₹50 Lakh and no notice for AY 2014-15 could have been issued. The issue has been set aside to the Ld. AO by the Ld. CIT(A) without deciding the merits of the case.

5. The Ld. DR stated that no grievance has been caused to the assessee as the assessment order has been set aside to the Ld. AO and another opportunity has been provided to the assessee where all issues can be raised.

6. We have considered the facts of the case, the submissions made and the documents filed. The assessment order was made u/s 147 r.w.s. 144 r.w.s. 144B of the Act. The Ld. CIT(A) has set aside the order to the Ld. AO as per the proviso to section 251(1) of the Act applicable w.e.f. 1.10.2024. Since the issue has been set aside to the Ld. AO, the assessee will be at liberty to raise all legal issues before the Ld. AO as well and since the order of the Ld. CIT(A) is as per law as the assessment was made u/s 144 of the Act and the Ld. CIT(A) has been empowered to set aside such cases before the Ld. AO for fresh adjudication as per the Proviso, therefore, we do not find any infirmity in the order of the Ld. CIT(A) whose order is confirmed and therefore, all the grounds of appeal raised by the assessee are dismissed.

7. In the result, the appeal filed by the assessee is dismissed.

Order pronounced in the open Court on 30th January, 2026.

Sd/-

[Sonjoy Sarma]
Judicial Member

Sd/-

[Rakesh Mishra]
Accountant Member

Dated: 30.01.2026

Bidhan (Sr. P.S.)



Copy of the order forwarded to:

1. **Madhu Devi, Gola Road, Nawada, Bihar, 805110.**
2. **ITO, Ward-2(3), Biharsharif.**
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