

**IN THE INCOME TAX APPELLATE TRIBUNAL,
KOLKATA-PATNA 'e-COURT', 'SMC' BENCH, KOLKATA
[Hybrid Court Hearing]**

**Before Shri Duvvuru RL Reddy, Vice-President (KZ)
&
Shri Rakesh Mishra, Accountant Member**

**I.T.A. No. 506/PAT/2025
Assessment Year: 2016-2017
&
S.A. No. 15/PAT/2025
(in ITA No. 506/PAT/2025)
Assessment Year: 2016-2017**

***Meena Gupta,.....Appellant
House No. 9/N3, Road No. 11,
Rajendra Nagar,
Rajendra Nagar S.O., (Patna),
Sampatchak, Patna-800016, Bihar
[PAN:ADDPG7557N]***

-Vs.-

***Income Tax Officer,.....Respondent
Ward-5(1), Patna,
Lok Nayak Jaiprakash Bhawan,
Dakbunglow Chauraha, Patna-800001,
Bihar***

Appearances by:

Shri Ankit Kumar, C.A., appeared on behalf of the assessee

*Shri Manab Adak, JCIT, appeared on behalf of the
Revenue*

Date of concluding the hearing: February 26, 2026

Date of pronouncing the order: March 27, 2026

O R D E R

Per Duvvuru RL Reddy, Vice-President (KZ):-

The present appeal bearing ITA No. 506/PAT/2025 is directed at the instance of assessee against the order of ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 25th September, 2025 passed for Assessment Year 2016-17.

2. The appeal is time barred by 128 days in filing the appeal by the assessee before the ld. CIT(Appeals). Though the assessee filed a condonation petition before the ld. CIT(Appeals) and prayed to condone the delay, but the ld. CIT(Appeals) did not condone the delay and without condoning the delay decided the appeal on merits as there was no sufficient cause for condonation of the delay for non-filing of condonation petition within the specified time limit before him in conformity with the provisions of section 249(2) of the Act as well as non-submission of any documentary evidence in support of her claim. The ld. A.R. further submitted that the assessee was not aware of the date of hearing before the ld. CIT(Appeals). Though the assessee in the Form No. 35 has stated the reason that there was a delay due to medical condition only. Therefore, the assessee was not in a position to appear before the ld. CIT(Appeals). But the ld. CIT(Appeals) decided the appeal filed by the assessee without condoning the delay on the ground that there was no sufficient cause for condonation of the inordinate delay in filing of the appeal as well as negligent attitude on the part

of the appellant. On being aggrieved, the assessee preferred an appeal before the ITAT.

3. Considering the facts and circumstances of the case and the reasons stated by the assessee i.e. ill health due to 60 years of age, we are of the view that the assessee was prevented in filing the appeal within the stipulated time before the Id. CIT(Appeals). Therefore, we are inclined to condone the delay of 128 days.

4. The assessee has filed the present Stay Application before the Tribunal bearing No. S.A. 15/PAT/2025 with a prayer to grant stay of the outstanding demand until the disposal of the appeal and direct the Id. Assessing Officer to refrain from any coercive recovery action.

5. With the assistance of Id. Representatives, we have gone through the record carefully. A perusal of the impugned order would reveal that Id. CIT(Appeals) has not adjudicated the appeal on merit, rather dismissed it saying that “since the inordinate delay in filing the appeal has not been condoned, consequently the appeal of the appellant becomes *non-est* and therefore the same is not admitted”. Therefore, instead of granting any stay, we deem it appropriate to hear the appeal itself along with this Stay Application. There is no objection qua this step at the end of the parties. Therefore, present Stay Application is dismissed.

6. The facts in brief are that the assessee is in the status of individual and derives income from business and profession. The assessee filed her return of income for AY 2016-17 declaring gross total income of Rs.3,07,830/- on 30.03.2017. Thereafter notice under section 148 of the Act was issued on 16.04.2021 of which the assessee failed to reply. Thereafter notice under section 142(1) was issued on several dates and the assessee did not reply. Thereafter a show-cause notice under section 144 of the Act was issued on 23.02.2022 against which the assessee did not reply which led to passing of order under section 147 of the Income Tax Act, 1961 on 15.03.2022. As per department findings, the assessee has purchased a property amounting to Rs.54,00,000/- during the assessment year, whose government rate was Rs.1,31,25,000/-. Since there is a difference of Rs.77,25,000/- in the consideration value and the government value, the ld. Assessing Officer added the difference amount to the total income of the assessee as income from other sources. Finally, ld. Assessing Officer assessed the total income of the assessee at Rs.80,32,830/-.

7. On being aggrieved, the assessee preferred an appeal before the ld. CIT(Appeals) with a delay of 128 days. But the Ld. CIT (Appeals) without taking into consideration of the same simply dismissed the Appeal filed by the assessee saying that “since the inordinate delay in filing the appeal has not been condoned, consequently the appeal of the appellant becomes *non-est* and therefore the same is not admitted.”.

8. On being aggrieved, the assessee preferred an appeal before the ITAT. At the time of hearing, the ld. Counsel for the assessee prayed before the Bench to give one opportunity to substantiate her claim.

9. It was the submission of the ld. Departmental Representative that sufficient opportunity was being provided to the assessee. The ld. CIT(Appeals) did not condone the delay on the ground that there was no sufficient cause for condonation of the delay in filing of the appeal as well as negligent attitude on the part of the appellant. The ld. D.R. pleaded to uphold the order of ld. CIT(Appeals).

10. We have perused the material available on record. By considering the totality of the facts and circumstances of the case, and in order to ensure the principle of natural justice, we are of the view that it is a fit case to provide one more opportunity to the assessee to decide the case on merit. Therefore, we remit the matter back to the file of ld. CIT(Appeals) with a direction to dispose of the appeal without any inference on the observations of earlier order passed by him and to decide the issue afresh on merit. At the same breath, we also hereby caution the assessee to promptly co-operate with the proceedings before the Ld. CIT(Appeals) failing which the Ld. CIT(Appeals) shall be at liberty to pass appropriate order in accordance with law and merits of the case, based on the materials available on the record. Thus, the grounds raised by the assessee in the appeal is allowed for statistical purposes.

11. In the result, the appeal of the assessee is allowed for statistical purposes and the Stay Application filed by the assessee is dismissed.

Order pronounced in the open Court on 27/03/2026.

Sd/-
(Rakesh Mishra)
Accountant Member

Sd/-
(Duvvuru RL Reddy)
Vice-President

Kolkata, the 27th day of March, 2026

*Copies to :(1) Meena Gupta,
House No. 9/N3, Road No. 11,
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Rajendra Nagar S.O., (Patna),
Sampatchak, Patna-800016, Bihar*

*(2) Income Tax Officer,
Ward-5(1), Patna,
Lok Nayak Jaiprakash Bhawan,
Dakbunglow Chauraha, Patna-800001,
Bihar*

*(3) CIT(Appeals), NFAC, Delhi;
(4) CIT - ;
(5) The Departmental Representative;
(6) Guard File*

TRUE COPY

By order

*Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha