

**IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCHES "SMC", HYDERABAD**

**BEFORE SMT. P. MADHAVI DEVI, JUDICIAL MEMBER**

**I.T.A. No. 1744/HYD/2017**

Assessment Year: 2013-14

Sri Srinivas Punnamaraju, HYDERABAD [PAN: AMTPP7662C]	Vs	Income Tax Officer, Ward-12(3), HYDERABAD
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**(Appellant)**

**(Respondent)**

For Assessee : Shri A.V.Raghuram, AR

For Revenue : Smt. Matta Padma, DR

Date of Hearing : 04-11-2019

Date of Pronouncement : 11-11-2019

**ORDER**

This appeal filed by the assessee for the AY.2013-14 is directed against the order of the Commissioner of Income Tax (Appeals)-1, Hyderabad, dated 27-09-2016.

2. Brief facts of the case are that, the assessee, an individual, filed his return of income, claiming loss under the head 'income from house property' of Rs.11,74,755/-. The above e-return filed by the assessee was processed u/s.143(1) of the Income Tax Act [Act] and intimation was issued, wherein the income from house property has been taken as 'self-occupied' as against the assessee's claim of the property being 'let-out' and allowed the deduction of only Rs.1,50,000/-. According to the assessee, this mistake probably happened on account of software problem, wherein the let-out property has been taken as 'self-occupied' and the deduction of claim u/s.24 of the Act towards interest payment on housing loan was restricted to Rs.1,50,000/-. When the assessee tried to get

it rectified, assessee was advised to approach the local Assessing Officer (AO). Accordingly, the assessee filed rectification petition u/s.154 of the Act before the AO, who however, held that there was no mistake apparent from record as the assessee himself has claimed the property as 'self-occupied' and therefore is not allowable.

3. Aggrieved, the assessee preferred an appeal before the CIT(A), who confirmed the order of AO and the assessee is in second appeal before the Tribunal.

4. The Ld.Counsel for the assessee, reiterating the submissions made by the assessee before the authorities below, has drawn my attention to the assessee's submissions before the CIT(A) that the interest certificates are issued by the SBI and ING Vysya Bank on home loans and also drew my attention to the return of income filed by the assessee, wherein the assessee had claimed loss on account of income from house property. He submitted that both the authorities failed to consider the issue in proper perspective.

5. Ld.DR, on the other hand, supported the orders of authorities below and submitted that loan has been taken by two persons including the wife of the assessee, whereas the entire interest payment has been claimed in the hands of assessee alone.

In rebuttal, Ld.Counsel for the assessee submitted that the name of the wife was added to the property only for the name sake and she is not the owner of the property and she has neither filed any return of income nor has claimed interest

expenditure in her hands. He has also drawn my attention to the affidavit filed by the wife of assessee, Smt.Vaijyanthi Punnamaraju to this effect.

6. Having regard to the rival contentions and material on record, I am of the opinion that assessee's claim that it is a let-out property and therefore is entitled to set-off the interest payment of housing loan has to be allowed. As regards the question as to whether the assessee is the sole owner of the property and therefore the entire interest amount is to be allowed in his hands has to be examined by the AO. Thus, the mistake pointed out by the assessee appears to be apparent from record and needs to be considered by the AO. Therefore, I am of the opinion that the AO ought not to have rejected the assessee's application u/s.154 of the Act. Therefore, I deem it fit and proper to set aside the order u/s.154 of the Act and remand the issue back to the file of AO with a direction to consider and examine the contentions of the assessee and allow the claim of assessee u/s.24 of the Act in accordance with law.

7. In the result, the appeal of assessee is treated as allowed for statistical purposes.

*Order pronounced in the open court on 11<sup>th</sup> November, 2019*

Sd/-  
**(P. MADHAVI DEVI)**  
**JUDICIAL MEMBER**

Hyderabad, Dated: 11-11-2019

*Copy to :*

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- 2. Income Tax Officer, Ward-12(3), Hyderabad.*
- 3. CIT(Appeals)-1, Hyderabad.*
- 4. Pr.CIT-1, Hyderabad.*
- 5. D.R. ITAT, Hyderabad.*
- 6. Guard File.*