

IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ‘ B ‘ Bench, Hyderabad
(Through Video Conferencing)
Before Shri S.S. Godara, Judicial Member
AND
Shri Laxmi Prasad Sahu, Accountant Member

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| ITA No.101/Hyd/2021 | | |
| Assessment Year: 2009-10 | | |
| Sri Syed Irfanuddin, Hyderabad PAN:AAPPI4693A (Appellant) | Vs. | Dy. C.I.T Central Circle 2(2) Hyderabad (Respondent) |
| Assessee by: | Sri P. Murali Mohan Rao | |
| Revenue by: | Sri Rohit Mujumdar,DR | |
| Date of hearing: | 26/08/2021 | |
| Date of pronouncement: | 08/09/2021 | |

ORDER

Per S. S. Godara, J.M.

This assessee's appeal for the A.Y 2009-10 arises against the order of the CIT (A)-12, Hyderabad, dated 25.11.2020 passed in case No.10159/2019-20 in proceedings u/s 154 of the I.T. Act.

Heard both the parties and case file perused

2. With the able assistance coming from both the parties, we notice at the outset that the Assessing Officer had invoked his section 154 rectification jurisdiction for reiterating LTCG addition of Rs.15,66,394/-. The Revenue's case as per the facts on record is that the Assessing Officer had made the same in 143(3) assessment framed on 31.10.2014; which in turn, was upheld in

the CIT (A)'s order dated 10.12.2014 followed by the consequential "giving effect" order in issue dated 22.3.2016 committing an apparent mistake by not adding the foregoing sum. It is vehemently contended from the departmental side that the Assessing Officer had omitted to make the impugned addition despite the fact of the same having been upheld for the CIT (A)'s lower appellate order.

3. We find that the relevant facts on record are altogether on different lines. The Assessing Officer appears to have issued his section 154 rectification show cause for adding LTCG of Rs.5,00,000/- only, whereas he ended up making the impugned addition of Rs.15,66,394/-. This is therefore, an instance wherein the impugned addition sought to be made in section 154 rectification jurisdiction never formed part of the show cause notice. We, therefore, see no merit to sustain the impugned addition of Rs.15,66,394/- since going against the Assessing Officer rectification show cause notice. This addition is deleted accordingly.

4. This assessee's appeal is allowed in above terms.

Order pronounced in the Open Court on 8th September, 2021.

Sd/-

Sd/-

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| (LAXMI PRASAD SAHU) ACCOUNTANT MEMBER | (S.S. GODARA) JUDICIAL MEMBER |
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Hyderabad, dated 8th September, 2021.

Vinodan/sps

Copy to:

| S.No | Addresses |
|------|--|
| 1 | Sri Syed Irfanuddin C/o P Murali & Co. C.As, 6-3-655/2/3 Somajiguda, Hyderabad 500082 |
| 2 | Dy.CIT Central Circle 2(2) Hyderabad |
| 3 | CIT (A)-12, Hyderabad |
| 4 | Pr. CIT – 2, Hyderabad |
| 5 | DR, ITAT Hyderabad Benches |
| 6 | Guard File |

By Order