

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में  
IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCHES "B", HYDERABAD

BEFORE  
SHRI RAMA KANTA PANDA, VICE PRESIDENT  
&  
SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER

आ.अपी.सं / ITA-IT No. 213/Hyd/2022  
(निर्धारण वर्ष / Assessment Year: 2012-13)

Deputy Commissioner of Income Tax, International Taxation-2, Hyderabad	Vs.	Ashwini Parvatha Reddi, Hyderabad [PAN No. ALPPP5774L]
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Shri Nishant Thakkar, AR  
राजस्व द्वारा/Revenue by: Shri K. Madhusudan, CIT-DR

सुनवाई की तारीख/Date of hearing: 25/10/2023  
घोषणा की तारीख/Pronouncement on: 27/10/2023

आदेश / ORDER

**PER K. NARASIMHA CHARY, JM:**

Challenging the order dated 16/03/2022 passed by the learned Commissioner of Income Tax (Appeals)-10, Hyderabad ("Ld. CIT(A)"), in the case of Ashwini Parvatha Reddi ("the assessee") for the assessment year 2012-13, Revenue preferred this appeal.

2. Brief facts of the case are that the assessee is a non-resident individual and filed the return of income for the assessment year 2012-13 on 28/07/2012 declaring an income of Rs. 295,45,34,241/- as income from long term capital gains and claimed benefit under section 115E of the Income Tax Act, 1961 (for short "the Act"). The case was reopened under section 148 of the Act on the ground that such long term capital gains was on account of sale of bonus shares and shares received as gift and, therefore, do not constitute foreign asset.

3. Case of the assessee was that he had subscribed/acquired 7,00,000 shares (Original shares) of AppLabs Technologies Private Limited (AppLabs) in financial year 2002-03, through foreign inward remittances; that further certain shares of AppLabs were received by the assessee from her spouse Mr. Sashi P. Reddi (non-resident), which were originally acquired through foreign inward remittances; that furthermore, some shares transferred by the assessee to her father-in-law vide a gift deed, reverted back to the assessee, as the gift being conditional was treated as invalid; that additionally, on all these shares AppLabs had issue bonus shares in the ratio of 1:9; and that during the previous year 2011-12, the assessee sold 1,62,53,376 shares of AppLabs.

4. Learned Assessing Officer, however, in completing the assessment, disregarded the contention of the assessee and determined the long term capital gains by applying 20% tax on such long term capital gains while denying the benefit under section 115E of the Act.

5. When the assessee preferred appeal, learned CIT(A) while following the view taken by the Tribunal in the case of the husband of the assessee,

namely, Mr. Shashi Parvatha Reddy in ITA No. 392/Hyd/2017, on identical facts and returned a finding that where the original shares are purchased/acquired in foreign exchange, then the same shall also be attributed to the bonus shares which have been allotted subsequently. He further found that the original shares acquired by the assessee from overseas investors are also foreign exchange assets under section 115E of the Act and accordingly while following the said decision, allowed the grounds of appeal of the assessee.

6. At the outset, learned AR submitted that the point for determination in the case of the assessee is identical to the point for determination in the case of her husband, and as a matter of fact, it is only pursuant to the case of her husband, the case of the assessee was reopened. He submitted that in the appeal filed by her husband, the Tribunal had taken a view which the learned CIT(A) followed. He, therefore, submitted that the findings of the Tribunal in the case of her husband, are applicable to the facts of the case on all fours.

7. Learned DR, per contra, relied upon the assessment order and submitted that the Revenue filed an appeal against the orders of the Tribunal in the case of her husband and, therefore, such a finding did not attain any finality.

8. We have gone through the orders of the authorities below. It is not in dispute that the facts of this case are identical to the facts involved in ITA No. 392/Hyd/2017. In the absence of any change in the facts or in law, we find it difficult to observe that the order of the learned CIT(A) suffers any illegality or irregularity, or to take a different view in the case of the

assessee. Respectfully following the same, we uphold the issue in favour of the assessee.

9. In the result appeal of the Revenue is dismissed.

Order pronounced in the open court on this the 27<sup>th</sup> day of October, 2023.

Sd/-  
**(RAMA KANTA PANDA)**  
**VICE PRESIDENT**

Sd/-  
**(K. NARASIMHA CHARY)**  
**JUDICIAL MEMBER**

Hyderabad,  
Dated: 27/10/2023

TNMM

Copy forwarded to:

1. Deputy Commissioner of Income Tax, International Taxation-2,  
Hyderabad.
2. Ashwini Parvatha Reddi, Plot No. 1056H, Road No. 45, Jubilee Hills,  
Hyderabad.
3. The CCIT (IT)(SZ), Bengaluru.
4. The CIT(IT&TP), Hyderabad.
5. DR, ITAT, Hyderabad.
6. GUARD FILE

TRUE COPY

ASSISTANT REGISTRAR  
ITAT, HYDERABAD