

**आयकर अपीलिय अधिकरण, विशाखापटणम SMC पीठ, विशाखापटणम**

IN THE INCOME TAX APPELLATE TRIBUNAL,  
VISAKHAPATNAM BENCH, VISAKHAPATNAM

**श्री दुव्वूरु आर एल रेड्डी, न्यायिक सदस्य के समक्ष**

BEFORE SHRI DUVVURU RL REDDY, HON'BLE JUDICIAL MEMBER

आयकर अपील सं./ I.T.A. No.284/Viz/2023

(निर्धारण वर्ष / Assessment Year : 2021-22)

Prathi Vijay Kumar,  
Srikakulam,  
Andhra Pradesh-532312.  
PAN: AIZPP 5124 Q

(अपीलार्थी/ Appellant)

अपीलार्थी की ओर से/ Appellant by

प्रत्यार्थी की ओर से / Respondent by

सुनवाई की तारीख / Date of Hearing

घोषणा की तारीख/Date of  
Pronouncement

Vs. Income Tax Officer,  
Ward-1,  
Srikakulam.

(प्रत्यर्थी/ Respondent)

Sri GVN Hari, AR

Dr. Aparna Villuri, Sr. AR

: 20/02/2024

: 28/02/2024

**ORDER**

**PER DUVVURU RL REDDY, Judicial Member :**

This appeal filed by the assessee is against the order of the Ld. CIT(A)-12, Mumbai in DIN & Order No. ITBA/APL/S/250/2023-24/1056126431(1), dated 15/09/2023 arising out of the order passed U/s. 143(1) of the Income Tax Act, 1961 [the Act] for the AY 2021-22.

2. Briefly stated the facts of the case are that the assessee is an individual filed his return of income for AY 2021-22 on 7/01/2022 admitting a total income of Rs.8,35,190/-. In the tax audit report of the assessee filed for AY 2021-22, the assessee's Auditor mentioned the income under the column 'any other items of income' as follows:

(Rs.)	
Interest from saving bank	511
Profit on sale of site	21,76,370
Total amount	21,76,890

Thereafter, the return filed by the assessee was processed by the CPC and the Intimation U/s. 143(1) of the Act was issued on 14/07/2022 wherein the total income was computed at Rs. 30,12,881/-. In the Intimation the adjustment was made for an amount of Rs. 21,76,881/- as mentioned in the Tax Audit Report under 'any other items of income' but the same was not mentioned in Column No.5(D) of Part-A 01 'Any other items of income' in the return. It was also mentioned that since the said amount of Rs. 21,76,881/- was received towards interest on savings account for Rs. 511/- and from the sale of sites Rs. 21,76,370/- and is admitted under the respective heads i.e., 'income from other sources' and 'income from capital gains'. Thus, an addition of Rs.21,76,881/- was made by the CPC and

also charged the interest U/s. 234B and 234C of the Act amounting to Rs. 85,820/- and Rs. 31,288/- respectively. Aggrieved by the Intimation passed by the CPC U/s. 143(1) of the Act, the assessee preferred an appeal before the Ld. CIT(A). On appeal, the Ld. CIT(A) considered the submissions of the assessee that the mistake is attributable to the Auditor (Chartered Accountant) who filed the Tax Audit Report of the assessee. But the Ld. CIT(A) did not appreciate the submissions of the assessee and held that the mistake appears to be a calculation mistake and not a human error which could have been corrected by the assessee by way of quick and timely remedial action but was not done in the case of the assessee and therefore the Ld. CIT(A) dismissed the grounds raised by the assessee by dismissing the assessee's appeal. Aggrieved by the order of the Ld. CIT(A), the assessee is in appeal before the Tribunal by raising the following grounds of appeal:

- "1. The order of the Ld. Addl./JCIT (Appeals)-12, Mumbai is contrary to the facts and also the law applicable to the facts of the case.*
- 2. The Ld. Addl/JCIT (Appeals) is not justified in upholding the adjustment of Rs. 21,76,681/- made by the CPC under the head 'income from business or profession' in the Intimation U/s. 143(1) of the Act.*

3. *The Ld. Addl./JCIT (Appeals) ought to have deleted the adjustment as the appellant already admitted this amount of Rs.21,76,681/- under the heads 'income from other sources' and 'capital gains'.*
4. *Any other grounds may be urged at the time of hearing."*

3. At the outset, the main contention of the Ld. AR is that the assessee filed his return of income admitting his income under three heads as under:

	(Rs.)
Income from business	8,00,023
Income from capital gains	1,85,171
Income from other sources	511
Total income	9,85,705
Deduction under Chapter VIA	1,50,511
	8,35,190

He therefore argued that the assessee's Auditor while filing the Tax Audit Report has erroneously mentioned the fact that the proceeds from sale of property and the interest income was not routed through the P & L Account. The Ld. AR further pleaded that since the capital gains out of sale of property is disclosed under the head 'income from capital gains' while filing the return of income and 'interest income' is disclosed under 'income from other sources', the CPC, Bengaluru has erred in adding the above said income once again to the total income of the assessee. In this connection, the Ld. AR also demonstrated before me in the

computation statement filed vide paper book page 97, wherein the gross proceeds from the sale of capital asset is Rs. 28,45,000/- and the purchase cost is Rs. 6,68,630/-. The Ld. AR further pleaded that the difference between the purchase and sale value amounting to Rs. 21,76,370/- has been wrongly disclosed by the Auditor in the TAR SI No. 16, which is available in the paper book page-110. The Ld. AR further submitted that the LTCG on the sale of assets have been computed after indexing the cost of acquisition and has been disclosed in the return of income filed by the assessee. Hence, the Ld. AR pleaded that the same amount cannot be taxed twice in the hands of the assessee. He therefore pleaded that the addition made by the CPC be deleted.

4. Per contra, the Ld. DR relied on the orders of the Ld. Revenue Authorities.

5. I have heard both the sides and perused material available on record as well as the orders of the Ld. Revenue Authorities. It is an admitted fact that the assessee has shown the capital gains against the sale of capital asset and interest income in the return of income for the AY 2021-22. But, due to wrong disclosure in the Tax Audit Report that the income was not routed through the

P & L Account, the CPC, Bengaluru made an addition of Rs.21,76,881/- as business income of the assessee but whereas the assessee treated the sale of capital asset as personal asset and has computed the capital gains while filing the return of income and paid taxes accordingly. Similarly, interest income was also disclosed while filing the return of income by the assessee. Given the above facts, I am of the opinion that the CPC while processing the return U/s. 143(1) of the Act has erroneously added the sale consideration and the interest income as business of the assessee whereas ignored the fact that these have been already declared in the respective heads of income while filing the return of income of the assessee. Therefore, the addition made by the CPC U/s. 143(1) is erroneous and hence I direct the Ld. AO to delete the addition. It is accordingly.

6. In the result, appeal of the assessee is allowed.

Pronounced in the open Court on 28<sup>th</sup>February, 2024

Sd/-

(दुव्वूरु आर.एल रेड्डी)

(DUVVURU RL REDDY)

न्यायिकसदस्य/JUDICIAL MEMBER

Dated :28/02/2024

OKK - SPS

आदेश की प्रतिलिपि अग्रेषित/Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee – Prathi Vijay Kumar, D.No. 14-01-23, Main Road, Ichapuram, Srikakulam, Andhra Pradesh-532312.
2. राजस्व/The Revenue – Income Tax Officer, Aayakar Bhavan, Palakonda Road, Srikakulam, Andhra Pradesh – 532001.
3. The Principal Commissioner of Income Tax,
4. आयकर आयुक्त (अपील)/ The Commissioner of Income Tax (Appeals),
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापटणम/ DR, ITAT, Visakhapatnam
6. गार्ड फ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary  
ITAT, Visakhapatnam