

**आयकर अपीलीय अधिकरण, हैदराबाद पीठ**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**Hyderabad ‘ ‘ Bench, Hyderabad**

**Before Shri Laliet Kumar, Judicial Member**  
**And**  
**Shri Manjunatha, G. Accountant Member**

**MA Nos.22 to 24/Hyd/2024**  
**आ.अपी.सं /ITA Nos.374 to 376/Hyd/2023**  
**(निर्धारण वर्ष/Assessment Years: 2013-14 to 2015-16)**

Income Tax Officer Ward 1 Chittoor	Vs.	Shri G. Vijayasimha Reddy Bengaluru PAN:AEYPG0539E
(Appellant)		(Respondent)
निर्धारिती द्वारा/Assessee by:		C.A Y.V.Bhanu Narayan Rao
राजस्व द्वारा/Revenue by::		Shri Madan Mohan Meena,DR
सुनवाई की तारीख/Date of hearing:	23/08/2024	
घोषणा की तारीख/Pronouncement:	29/08/2024	

**आदेश/ORDER**

**Per Laliet Kumar, J.M**

These miscellaneous applications filed by the Revenue seeking that the ground raised by the Revenue which is available at page 2 of the M.A has not been adjudicated by the Tribunal read as under:

*“Whether CIT (A) erred in holding the capital gains as long term in nature when the flats were demarked for the assessee through agreement dated 26.06.2012 and sold during financial year*

*2012-13, 2013-14 and 2014-15 being less than 36 months of holding”.*

3. It was submitted that since the above ground has not been adjudicated by the Tribunal, thus there is an apparent error in deciding the appeal by the Tribunal. Hence it is prayed that the order may be recalled for the limited purpose of adjudicating the ground of appeal mentioned above.

4. The learned AR submitted that in the present case, the Tribunal has decided the issue and held that the money received by the assessee pursuant to the terms of JDA, was a business income and therefore, the same cannot be subject to Long-Term Capital Gain as per ground raised by the Revenue and there was no necessity to decide the ground.

5. We have heard both the parties, perused the material available on record and gone through the orders of the authorities below. Undoubtedly, the Tribunal while adjudicating the appeals has not adjudicated this ground and has not decided this particular ground, though same was available for adjudication. In our view, there is an error on record in the orders passed by the Tribunal. Therefore, we recall the orders for the limited purpose of adjudicating the ground mentioned above and now posted the matter for hearing on 19/09/2024..

6. In the result, M.As filed by the Revenue are allowed.

Order pronounced in the Open Court on 29<sup>th</sup> August, 2024.

Sd/-

Sd/-

<b>(MANJUNATHA, G.) ACCOUNTANT MEMBER</b>	<b>(LALIET KUMAR) JUDICIAL MEMBER</b>
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Hyderabad, dated 29<sup>th</sup> August, 2024

***Vinodan/sps***

Copy to:

S.No	Addresses
1	Income Tax Officer Ward-1 Chittoor
2	Shri G Vijayasimha Reddy, 501, Santaclara Apartments, 3 <sup>rd</sup> Cross, 18 <sup>th</sup> Main Road, Jayanagar, 4 <sup>th</sup> T Block, Bengalore 560041
3	Pr. CIT – Tirupati
4	DR, ITAT Hyderabad Benches
5	Guard File

*By Order*