

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

**IN THE INCOME TAX APPELLATE TRIBUNAL
VISAKHAPATNAM "DIVISION" BENCH, VISAKHAPATNAM**

(HYBRID HEARING)

**श्री के.नरसिम्हा चारी, न्यायिक सदस्य एवं श्री एसबालाकृष्णन, लेखा सदस्य के समक्ष
BEFORE SHRI K. NARASIMHA CHARY, HON'BLE JUDICIAL MEMBER**

&

SHRI S BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER

**आयकर अपीलसं./I.T.A.No.357/VIZ/2024
(निर्धारण वर्ष/ Assessment Year: 2022-23)**

Tatiparti Satyanarayana D.No. 47-15-10, Shop No. 201A V.R.C. Complex, Dwaraka Nagar Visakhapatnam – 530016 Andhra Pradesh [PAN: ACGPT5353F] (अपीलार्थी/ Appellant)	v.	ITO – Ward – 1(1) Income Tax Office Pratyakshakar Bhavan MVP Double Road Visakhapatnam – 530017 Andhra Pradesh (प्रत्यर्थी/ Respondent)
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करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri GVN Hari, AR
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Shri K. Srinivasu, Sr.AR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	10.12.2024
घोषणा की तारीख/Date of Pronouncement	:	13.12.2024

आदेश /ORDER

PER SHRI S BALAKRISHNAN, ACCOUNTANT MEMBER:

1. This appeal is filed by the assessee against the order of Learned Commissioner of Income Tax (Appeals)-1, Coimbatore [hereinafter in short "Ld.CIT(A)"] vide DIN & Order No. ITBA/APL/S/250/2024-

25/1066515313(1) dated 09.07.2024 for the A.Y.2022-23 arising out of order passed under section 143(1) of the Income Tax Act, 1961 (in short 'Act') dated 07.08.2023.

2. Brief facts of the case are that, assessee filed his return of income on 21.10.2022 by admitting a total income of Rs. 48,15,750/-. While filing the return of income assessee declared one property as Self-occupied and other two properties as let out and has accordingly declared rental income received by the assessee. However, it was noticed that assessee has wrongly filled up notional value of rent with respect of self-occupied property but has declared net Nil income with respect to the self-occupied property. The CPC, Bangalore while processing the return of income found that assessee has not taken an amount of Rs.18,52,306/- as income from self-occupied property while computing the total income of the assessee and has intimated the discrepancy vide letter dated 05.06.2023 to the assessee regarding the adjustment to be made by the CPC, Bangalore. However, assessee has failed to respond to the notice. Thereafter the CPC, Bangalore included the amount of Rs.18,52,306/- while passing the intimation order under section 143(1) of the Act.

3. Being aggrieved by the intimation passed by the CPC, Bangalore under section 143(1) of the Act, assessee filed an appeal before Ld. CIT(A). Considering the submissions made by the assessee before Ld. CIT(A), Ld.CIT(A) dismissed the appeal of the assessee.

4. Being aggrieved by the order of the Ld. CIT(A), assessee is in appeal before us by raising the following grounds of appeal:-

“1. The order of the learned Commissioner of Income Tax (Appeals) is contrary to the facts and also the law applicable to the facts of the case.

2. The learned Commissioner of Income Tax (Appeals) is not justified in upholding the adjustment of Rs.18,52,306 made by the CPC in the intimation issued u/s 143(1) of the Act under the head of 'Income from House Property'.

3. The learned Commissioner of Income Tax (Appeals) failed to appreciate that the appellant admitted only 'Nil' income in respect of self-occupied property and therefore CPC erred in making addition towards annual value of such self-occupied house property

4. Any other ground that may be urged at the time of appeal hearing.”

5. Ground Nos. 1 and 4 are general in nature and needs no adjudication.

6. Ground Nos. 2 and 3 relates to holding the adjustment by the CPC, Bangalore for Rs.18,52,306/- made by the CPC in the intimation under section 143(1) of the Act. Ld. Authorised Representative [hereinafter “Ld.AR”] submitted that assessee has mistakenly declared notional income while filing the return of income, even though the property was self-occupied by the assessee for more than ten years. Ld.AR reiterated that in the previous years annual value was accepted by the Department as NIL. Ld.AR submitted that during the impugned assessment year, assessee has wrongly declared in return of income which is erroneous and needs to be deleted. Ld.AR also referred to section 23(2) of the Act stating that annual value of the house which is in occupation of

the owner of the property for his own residence shall be taken as NIL. He therefore pleaded that the addition made by the CPC, Bangalore be deleted.

7. Per contra, Ld. Departmental Representative [hereinafter in short “Ld.DR”] submitted that the CPC, Bangalore has provided an opportunity to the assessee to file its objection before confirming the additions. Ld. DR further submitted that the assessee ought to have filed a revised return by declaring the annual value as NIL with respect to self-occupied property. In the absence of filing of revised return of income by the assessee, the addition made by way of intimation under section 143(1) of the Act by the CPC needs to be sustained.

8. We have heard both the sides and perused the material available on record. It is an admitted fact that the assessee has declared annual lettable value with respect to the self-occupied property while filing the return of income for the A.Y.2022-23. Section 23(1) of the Act is reproduced below for the sake of reference: -

“23. (1) For the purposes of section 22, the annual value of any property shall be deemed to be-

(a) the sum for which the property might reasonably be expected to let from year to year; or

(b) where the property or any part of the property is let and the actual rent received or receivable by the owner in respect thereof is in excess of the sum referred to in clause (a), the amount so received or receivable; or

(c) where the property or any part of the property is let and was vacant during the whole or any part of the previous year and owing to

such vacancy the actual rent received or receivable by the owner in respect thereof is less than the sum referred to in clause (a), the amount so received or receivable:

Provided that the taxes levied by the local authority in respect of the property shall be deducted (irrespective of the previous year in which the liability to pay such taxes was incurred by the owner according to the method of accounting regularly employed by him) in determining the annual value of the property of that previous year in which such taxes are actually paid by him.

Explanation. - For the purposes of clause (b) or clause (c) of this subsection, the amount of actual rent received or receivable by the owner shall not include, subject to such rules as may be made in this behalf, the amount of rent which the owner cannot realise.”

9. On the plain reading of Section 23(1) of the Act, it can be observed that annual value of the property shall be deemed to the sum for which the property might reasonably be expected to let out from year to year. However, section 23(2) of the Act specifies that where the property consists of a house or part of a house which is in the occupation of the owner for the purpose of his own residence, the annual value for such house or part of the house shall be taken to be NIL. The contention of the Ld.AR is that the assessee is occupying the property for the purpose of his own residence and hence the value should be taken as NIL. Merely on the technical ground that the annual lettable value has been wrongly filled while filing the return of income cannot be the ground to assess the income of the property occupied by the owner for the purpose of his own residence. We therefore direct the Ld. AO / CPC, Bangalore to delete the addition of Rs.18,52,306/- being the annual lettable value wrongly declared by

the assessee while filing the return of income. We therefore allow the grounds raised by the assessee.

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

Order pronounced in the open court on 13th December, 2024.

Sd/-
(के.नरसिम्हा चारी)
(K. NARASIMHA CHARY)
न्यायिक सदस्य/JUDICIAL MEMBER

Dated: 13.12.2024

Giridhar, Sr.PS

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

Sd/-
(एस बालाकृष्णन)
(S. BALAKRISHNAN)
लेखा सदस्य/ACCOUNTANT MEMBER

1. निर्धारिती/ The Assessee : **Tatiparti Satyanarayana**
D.No. 47-15-10, Shop No. 201A
V.R.C. Complex, Dwaraka Nagar
Visakhapatnam – 530016
Andhra Pradesh
2. राजस्व/ The Revenue : **ITO – Ward – 1(1)**
Income Tax Office
Pratyakshakar Bhavan
MVP Double Road
Visakhapatnam – 530017
Andhra Pradesh
3. The Principal Commissioner of Income Tax
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापटणम /DR,ITAT, Visakhapatnam
5. The Commissioner of Income Tax
6. गार्ड फ़ाईल / Guard file

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आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam