

**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 एस बालाकृष्णन, 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.400/VIZ/2024  
(निर्धारण वर्ष/ Assessment Year: 2019-20)**

<b>Krishnam Raju Farms</b> D.No. 27-14-13 Padmalaya Theatre Road Bheemavaram – 534202 Andhra Pradesh  <b>[PAN: AAPFK9183P]</b> <b>(अपीलार्थी/ Appellant)</b>	<b>v.</b>	<b>Asst. Director of Income Tax</b> Central Processing Centre Bangalore  <b>(प्रत्यर्थी/ Respondent)</b>
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करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri C. Subrahmanyam, AR
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Shri K. Srinivasu, Sr.AR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	11.12.2024
घोषणा की तारीख/Date of Pronouncement	:	17.01.2025

**आदेश /ORDER**

**PER SHRI S BALAKRISHNAN, ACCOUNTANT MEMBER:**

1. This appeal is filed by the assessee against the order of Addl/JCIT(A) – 7, Mumbai [hereinafter in short "Ld.CIT(A)"] vide DIN & Order No. ITBA/APL/250/2024-25/1066849622(1) dated 19.07.2024 for the A.Y. 2019-20

arising out of intimation order passed under section 143(1) of the Income Tax Act, 1961 (in short 'Act') dated 10.05.2020.

2. Brief facts of the case are that, assessee filed its return of income on 30.08.2019 admitting a NIL Income. The return was summarily processed under section 143(1) of the Act on 10.05.2020 by determining the total income at Rs.55,20,550/-. The CPC, Bangalore has made an addition of Rs.55,20,550/- on account of incorrect claim in the return of income.

3. On being aggrieved by the intimation, assessee filed an appeal before Ld.CIT(A). Assessee claimed that it is running a nursery and agricultural farm and hence the gross receipts are to be considered as arising from the agricultural operations and accordingly the gross profit from the agricultural operation amounting to Rs.55,20,550/- is fully exempt from tax under section 10(1) of the Act. Assessee pleaded before Ld. CIT(A) that due to data entry mistake assessee has shown it as income from profit from business of the assessee without claiming it as exempt income. Assessee also made submissions regarding the assessments made during the earlier assessment years and subsequent assessment years considering the same as agricultural income. Ld.CIT(A) considering all the submissions citing the provisions of section 143(1)(a)(ii) of the Act assessee has made an incorrect claim which is apparent from the information in the return filed by the assessee and concluded that CPC,

Bangalore has rightly made addition under section 143(1)(a)(ii) of the Act, thereby dismissed the appeal of the assessee.

4. Aggrieved by the order of the Ld. CIT(A), assessee is in appeal before us by raising various grounds.

*“1. That on the facts and circumstances of the case and in law, the intimation processed u/s 143(1) of the IT Act, dt :10.05.2020, as upheld by the Ld. CIT(A), NFAC vide orders passed u/s 250 dt. 19.07.2024, are contrary to the facts of the case and the provisions of law.*

*2. The Ld. CIT(A) should have recognized that the primary issue raised was that the assessee firm was engaged in agricultural operations, making the income exempt from tax, this exempt income as it was mistakenly reported under the business head, leading to taxation, given these circumstances, the Ld. CIT(A) NFAC should not have summarily upheld the addition.*

*3. The Ld. CIT(A), while dismissing the case, relied on the provisions of Section 143(1) of the IT Act, thereby upholding powers equivalent to that of the AO, he should have considered the issue on its merits rather than focusing on technicalities.*

*4. For these and other reasons that may be urged at the time of hearing, the appellant prays that the orders passed u/s 250 of the Income Tax Act be set aside and the additions made by the Assessing Officer be deleted.”*

5. The only issue arising out of the grounds is with respect to addition made by the CPC, Bangalore amounting to Rs.55,20,550/-.

6. Ld. Authorised Representative [hereinafter “Ld.AR”] pleaded that assessee is engaged in nursery operations and having agriculture farm and therefore the income derived from such operations are considered as income from agricultural activity and therefore claimed from tax under section 10(1) of the Act. Ld.AR also pleaded that in similar circumstances for the earlier

assessment years the Ld.CIT(A) has allowed the appeal of the assessee considering the rectification order passed under section 154 of the Act by the Assessing Officer. He further pleaded that the similar petition under section 154 of the Act made by the assessee was not considered by the Ld. AO. Ld.AR relied on the various case laws as cited in the paper book.

7. Per contra, Ld. Departmental Representative [hereinafter in short “Ld.DR”] submitted that assessee has wrongly made claim while filing the return of income and hence CPC, Bangalore has processed the return as filed by the assessee. Ld. DR also submitted that Ld. CIT(A) has rightly considered the provisions of section 143(1)(a)(ii) of the Act while dismissing the appeal of the assessee. He therefore pleaded that the order of the Ld. CIT(A) be upheld.

8. We have heard both the sides and perused the material available on record. It is an undisputed fact that the assessee while filing its return of income arising out of the operations of running the nursery and agricultural farm has mentioned income arising from business operations. However, from the computation statement attached in the paper book, assessee has claimed it as agricultural income and it is exempt from tax under section 10(1) of the Act. It is also an undisputed fact that the earlier assessment years and subsequent assessment years the revenue authorities have not disputed the character of income while allowing the same as income derived from agricultural operations and has exempted under section 10(1) of the Act. Merely by wrongly stating

while filing the return of income should not be the constraint for the assessee to claim it as exempt income during the assessment proceedings for the impugned AY. We are therefore of the considered view that assessee is entitled for exemption under section 10(1) of the Act and therefore direct the Ld. AO to delete the addition, and thereby set-aside the order of the Ld.CIT(A). Grounds of the assessee are allowed.

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

Order pronounced in the open court on 17<sup>th</sup> January, 2025.

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

Dated: 17.01.2025  
Giridhar, Sr.PS

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

आदेशकीप्रतिलिपिअग्रेषित/ Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee : **Krishnam Raju Farms**  
D.No. 27-14-13  
Padmalaya theatre Road  
Bheemavaram – 534202  
Andhra Pradesh
2. राजस्व/ The Revenue : **Asst. Director of Income Tax**  
Central Processing Centre  
Bangalore
3. The Principal Commissioner of Income Tax
4. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, विशाखापटणम /DR,ITAT, Visakhapatnam
5. The Commissioner of Income Tax
6. गार्डफ़ाईल / Guard file

//True Copy//

आदेशानुसार / BY ORDER

Sr. Private Secretary  
ITAT, Visakhapatnam