

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

**IN THE INCOME TAX APPELLATE TRIBUNAL
VISA KHAPATNAM "SMC" BENCH, VISA KHAPATNAM**

(HYBRID HEARING)

**श्री विजय पाल राव, उपाध्यक्ष, एवं श्री एस बालाकृष्णन, लेखा सदस्य के समक्ष
BEFORE SHRI VIJAY PAL RAO, HON'BLE VICE PRESIDENT**

&

SHRI S BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER

**आयकर अपीलसं./I.T.A.No.277/VIZ/2024
(निर्धारण वर्ष/ Assessment Year: 2016-17)**

Boddapalli Hema Sundara Rao D.No. 25-1-37, SVR Maisonette Flat No. 304, 3 rd Floor Chandramouli Nagar Guntur – 522007, Andhra Pradesh [PAN: AFEPB4281M] (अपीलार्थी/ Appellant)	v.	ITO – Ward – 3(1)1 Income Tax Office C.R. Building Annex M.G. Road, Vijayawada – 52002 Andhra Pradesh (प्रत्यर्थी/ Respondent)
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करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri M.V. Prasad, AR
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Dr. Aparna Villuri, Sr.AR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	06.01.2025
घोषणा की तारीख/Date of Pronouncement	:	20.01.2025

आदेश /O R D E R

PER SHRI S BALAKRISHNAN, ACCOUNTANT MEMBER:

1. This appeal is filed by the assessee against order of Learned Commissioner of Income Tax (Appeals), National Faceless Appeal centre, Delhi [hereinafter in short "Ld.CIT(A)"] vide DIN & Order No. ITBA/NFAC/S/250/2024-25/1065214134(1) dated 29.05.2024 for the

A.Y.2016-17 arising out of order passed under section 143(3) of the Income Tax Act, 1961 (in short 'Act') dated 05.12.2018.

2. Brief facts of the case are assessee being an individual filed his return of income for the A.Y. 2016-17 admitting a total income of Rs.2,56,000/-. The case was selected for limited scrutiny under CASS for examining the following points:-

- a. Cash deposits and transactions in property.
- b. Capital Gain and sale of property.

3. During the course of assessment proceedings, assessee furnished the copy of purchase document of the property sold by him and two work agreements from contractors. However, assessee has not furnished the capital gain computation and details of bank account wherein large cash deposits have been made and supporting documentary evidences. After verification of the submissions made by the assessee, Ld. Assessing Officer [hereinafter in short "Ld. AO"] made an addition of Rs. 4,47,160/- towards Long Term Capital Gains and Rs.28,52,835/- as unexplained cash credits in bank account taxable under section 68 of the Act.

4. Aggrieved by the order of the Ld. AO, assessee filed an appeal before the Ld. CIT(A). Ld. CIT(A) considering the submissions of the assessee dismissed the appeal of the assessee.

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

“1. The order of 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 sustaining the addition of Rs.4,47,160 made by the assessing officer towards long term capital gains.

3. The learned Commissioner of Income Tax (Appeals) is not justified in sustaining the addition of Rs.28,52,835 made u/s 68 of the Act towards unexplained credits in bank account.

4. Any other grounds may be urged at the time of hearing.”

6. Additionally, assessee also filed a petition under Rule 29 of the Income Tax Appellate Tribunal Rules (in short “ITAT Rules”) for production of additional evidences.

7. Ld. Authorised Representative [hereinafter “Ld.AR”] of the assessee submitted that cash deposits in the Yes Bank arise out of withdrawals made from ICICI Bank account. He submitted that the relevant bank accounts are attached as additional evidences before the Tribunal under Rule 29 of the ITAT Rules. Further, he also submitted that the assessee purchased the property in Semi-constructed state and accordingly incurred certain expenditure to complete the construction which was claimed as cost of acquisition. He therefore pleaded that these additional evidences may be accepted by the Tribunal and the matter be remitted back to the file of the Ld. AO for examination and deciding the case on merits.

8. Per contra, Ld. DR fully supported the orders of the Revenue Authorities.
9. We have heard both the sides and perused the material available on record including the petition filed by the assessee Under Rule 29 of ITAT Rules. Admittedly, we find from the order of the Ld. AO that assessee has not furnished the bank statements before the Ld. AO for verification and also the computation of capital gains for the property sold by the assessee. The assessee before us has filed the bank statements and the documents while praying for admission of additional evidences under Rule 29 of ITAT Rules. We therefore in order to provide one more opportunity to the assessee by following the principles of natural justice, considered it deem fit to remit the matter back to the file of the Ld. AO for adjudicating the case on merits based on the additional evidences produced by the assessee. Needless to say, that the assessee should cooperate with the assessment proceedings before the Ld. AO without seeking unnecessary adjournments. Thus, grounds raised by the assessee are disposed off statistically.
10. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 20th January, 2025.

Sd/-
(विजय पाल राव)
(VIJAY PAL RAO)
उपाध्यक्ष/VICE PRESIDENT
Dated: 20.01.2025
Giridhar, Sr.PS

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

आदेशकीप्रतिलिपिअग्रेषित/ Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee : **Boddapalli Hema Sundara Rao**
D.No. 25-1-37, SVR Maisonette
Flat No. 304, 3rd Floor
Chandramouli Nagar
Guntur – 522007, Andhra Pradesh
2. राजस्व/ The Revenue : **ITO – Ward – 3(1)1**
Income Tax Office
C.R. Building Annex
M.G. Road, Vijayawada – 52002
Andhra Pradesh
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