

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

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

**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.182/VIZ/2024
(निर्धारणवर्ष / Assessment Year: 2012-13)**

Lakshmi Tanuja Sugguna Flat No. 1, 3 rd Floor D.No. 21-11/3-3A Sai Baba Colony, 3 rd Line Madhura Nagar, Vijayawada – 520011 Andhra Pradesh [PAN: BORPS8667B]	v.	Income Tax Officer – Ward – 3(5) C.R. Buildings, Vijayawada Andhra Pradesh
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)

करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri C. Subrahmanyam, AR
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Dr.Aparna Villuri, Sr.AR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	07.01.2025
घोषणा की तारीख/Date of Pronouncement	:	28.01.2025

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)/Addl/JCIT(A)-1, Gurugram [hereinafter in short "Ld.CIT(A)"] vide DIN & Order No.

ITBA/APL/S/250/2023-24/1061729761(1) dated 29.02.2024 arising out of order passed Under section 144 of Income Tax Act, 1961 (in short 'Act') dated 05.12.2019 for the A.Y.2012-13.

2. Briefly stated facts of the case are that, assessee is an individual and has not filed return of income for the assessment year under consideration. Ld.Assessing Officer [hereinafter in short "Ld. AO"] has received information that the assessee has sold immovable property vide sale document No.5060/2011 dated 01.08.2011 of SRO, Machilipatnam Krishna District along with six others during the A.Y. 2012-13 for a total consideration of Rs.99,70,400/- out of which the share of the assessee works out to Rs.14,24,340/-(99,70,400/7) and the assessee is liable for capital gains in her hands. Thereafter, since the assessee has not filed any return of income and declared income on capital gains, Ld. AO issued notice under section 148 of the Act on 29.03.2019 with the prior permission of the concerned authorities. Subsequently, notices under section 142(1) of the Act were issued on 30.08.2019, 07.11.2019 & 21.11.2019 calling for filing of return of income and also certain information. In response, assessee failed to furnish either return of income or information called for. Further, Ld.AO issued show-cause notice on 21.11.2019 asking the assessee as to why Rs.14,24,340/- cannot be treated as income from capital gains. In response, assessee has not filed any reply. Therefore, Ld. AO proceeded to complete the assessment to the best of

judgement under section 144 of the Act and determined income of the assessee at Rs.14,24,340/- and raised demand of Rs.8,05,510/-.

3. On being aggrieved, assessee preferred an appeal before Ld. CIT(A) but the assessee even after receipt of the hearing notices on various dates did not file any supporting documents on her contentions as per the grounds of appeal raised by the assessee. Therefore, the Ld. CIT(A) disposed of the appeal based on the merits available on record.

4. On being aggrieved, assessee preferred an appeal before the Tribunal and raised following grounds of appeal: -

“1. That under the facts and circumstances of the case the order passed u/s 144 of the IT Act dt: 17.09.2021 that was upheld by the Ld.CIT(A) NFAC vide order passed u/s 250 of the IT Act dt: 29.02.2024 is not in accordance with facts of the case and provisions of law.

2. The Ld. CIT(A) disposed of the appeal ex-parte without granting a reasonable opportunity to the assessee, thereby violating the principles of natural justice.

3. The disposal of the appeal in limine by the Ld. CIT(A) is against the provisions of Section 250(6) of the Income Tax Act.

4. The Ld. CIT(A) overlooked the assessee's plea & statement of facts wherein, the assessee submitted that there was no sale transaction effected by the assessee, as erroneously understood by the AO, causing for issue of notice u/s 148 of the IT Act and completion of the assessment thereto.

5. For these and such other grounds, that may be urged at the time of hearing of subject appeal, the appellant prays that the orders of the Learned CIT(Appeals) u/s 250 of the Act are to be set aside.”

5. At the outset, Ld. Authorised Representative [hereinafter “Ld.AR”] submitted that Ld. AO and Ld.CIT(A) passed exparte order without providing adequate opportunity of being heard to the assessee, therefore, considering additions/disallowance made by the Ld. AO, Ld.AR pleaded that the matter may be remitted back to the file of the Ld.AO.

6. On the other hand, Ld. Departmental Representative [hereinafter in short “Ld. DR”] relied on the order of the Ld.CIT(A) and submitted that assessee has not utilized the opportunity provided by Ld.CIT(A). Therefore, the order passed by Ld. CIT(A) is exparte order and she pleaded to confirm the orders passed by the Revenue Authorities.

7. We have heard both the sides and perused the material available on record. On a perusal of the assessment order as well as Ld.CIT(A) order, it is observed that even though the Ld. AO as well as Ld.CIT(A) provided opportunity on several occasions, assessee could not appear nor complied to the notices issued. Considering the submissions of the Ld. AR and totality of facts and keeping in view the additions / disallowance made by the Assessing Officer, in the interest of providing substantial justice, we are of the opinion that assessee should be given one more opportunity of being heard. Therefore, considering the facts and circumstances of the case and in order to meet the principles of natural justice, we are of the view that it is a fit case to remit the

matter back to the file of the Ld. AO for fresh consideration and the assessee is directed to cooperate with the proceedings before the Ld. AO. Thus, the grounds raised by the assessee are allowed for statistical purposes.

8. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 28th January, 2025.

Sd/-
(विजय पाल राव)
(VIJAY PAL RAO)
उपाध्यक्ष/VICE PRESIDENT
Dated :. 28.01.2025
Giridhar, Sr.PS

Sd/-
(एसबालाकृष्णन)
(S. BALAKRISHNAN)
लेखासदस्य/ACCOUNTANT MEMBER

आदेशकीप्रतिलिपिअग्रेषित/ Copy of the order forwarded to :-

1. निर्धारिती/ The Assessee : **Lakshmi Tanuja Sugguna**
Flat No. 1, 3rd Floor
D.No. 21-11/3-3A
Sai Baba Colony, 3rd Line
Madhura Nagar, Vijayawada – 520011
Andhra Pradesh
2. राजस्व/ The Revenue : **Income Tax Officer – Ward – 3(5)**
C.R. Buildings, Vijayawada
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