

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

IN THE INCOME TAX APPELLATE TRIBUNAL,
VISAKHAPATNAM BENCH, VISAKHAPATNAM

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

(HYBRID HEARING)

आयकर अपील सं./ I.T.A. 512/Viz/2024
(निर्धारण वर्ष / Assessment Year :2016-17)

Seethamraju Satya Surya Venkata Uma Rani, Visakhapatnam. PAN: AREPS1245A (अपीलार्थी/ Appellant)	Vs.	Income Tax Officer, Ward-5(4), Visakhapatnam.
अपीलार्थी की ओर से/ Assessee by	:	(प्रत्यर्थी/ Respondent)
प्रत्यर्थी की ओर से / Revenue by	:	Sri GVN Hari, AR Dr. Aparna Villuri, Sr. AR

सुनवाई की तारीख / Date of Hearing	:	05/02/2025
घोषणा की तारीख/Date of Pronouncement	:	20/02/2025

O R D E R

PER S. BALAKRISHNAN, Accountant Member :

This appeal filed by the assessee is against the order of the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi ("Ld. CIT(A)-NFAC") vide DIN & Order No. ITBA/NFAC/S/250/2024-25/1069856469(1), dated 22/10/2024 arising out of the order passed U/s. 154 of the Income Tax Act, 1961 ("the Act"), dated 21/06/2019 for the AY 2016-17.

2. Facts in brief are that the assessee is an individual, filed her return of income admitting a total income of Rs. NIL for the AY 2016-17 on 31/3/2017. The case was selected for scrutiny under CASS to examine “whether cash deposit has made from disclosed income (ii) investment and income from property are duly disclosed. Thereafter, statutory notices U/s. 143(2) and 142(1) of the Act were issued and served on the assessee from time to time. Further, a show cause notice dated 8/12/2018 was also issued on the assessee requiring to explain the source for bank deposit in the bank account and investment made in the property. In response to the said notices, the assessee submitted information through e-portal. On examining the bank statements held by the assessee with Lakshmi Vilas Bank, Dwaraka Nagar Branch, Visakhapatnam, the Ld. AO observed that the assessee was made a cash deposit of Rs. 13 lakhs during FY 2015-16 and the assessee was required to explain the sources for the same. It was submitted by the assessee that cash deposits were out of the earlier withdrawals made in the same bank account and during the same Financial Year. The assessee also further conceded that no books of account are maintained by her and the deposit of Rs. 8 lakhs made by the assessee on 10/06/2015 shall be admitted as income of the assessee. The Ld. AO considering the

submissions of the assessee made an addition of Rs. 8 lakhs U/s.69A r.w.s 115BBE of the Act, whereas the Ld.AO has not allowed the loss claimed by the assessee under the head income from house property from the assessed income. On being aggrieved by the order of the Ld. AO, the assessee preferred an appeal before the Ld. CIT(A)-NFAC.

3. The assessee submitted before the Ld.CIT(A)-NFAC that she has filed a rectification petition dated 17/01/2019 stating that she was eligible to claim set off of losses against the income determined by the Ld. AO for the AY 2016-17. It was further submitted by the assessee that the rectification application was rejected by the Ld. AO. The assessee also submitted a copy of the return of income filed by the assessee declaring a loss of Rs. 11,07,867/- which was not allowed by the Ld. AO while making the addition of Rs. 8 lakhs U/s. 69A of the Act. The Ld.CIT(A)-NFAC considered that the assessee has filed an appeal against the order passed U/s. 154 instead of order passed U/s. 143(3) of the Act and dismissed the appeal of the assessee. On being aggrieved by the order of the Ld. CIT(A)-NFAC, the assessee is in appeal before the Tribunal by raising the following grounds of appeal:

- “1. *The order of the Ld. CIT(A) is contrary to the facts and also the law applicable to the facts of the case.*
2. *The Ld.CIT(A) ought to have appreciated that the action of the Assessing Officer in not setting off the loss of Rs. 11,07,867/- assessed under the head income from house property against the addition of Rs. 8 lakhs made U/s. 69A of the Act constituted a mistake apparent from record.*
3. *The Ld. CIT(A) ought to have directed the Assessing Officer to compute the total income by adjusting the loss of Rs. 11,07,867/- against the income of Rs. 8 lakhs.*
4. *Any other ground may be urged at the time of hearing.”*

4. Grounds No. 1 & 4 are general in nature and need no adjudication.

5. Grounds No. 2 & 3 relate to not allowing the loss of Rs.11,07,867/- by the Ld. Revenue Authorities against the assessed income. The Ld. AR submitted that the assessee has filed the return of income disclosing loss of Rs. 11,07,867/-. The Ld. AR further submitted that the Ld. AO while computing the tax including the assessed income failed to consider the loss claimed by the assessee under head income from house property for Rs.11,07,867/- whereas the Ld AO has erroneously considered an amount of Rs.6,99,940/- as loss from house property and has made set off against the income from other sources declared during the year and included the addition made U/s. 69A of the

Act. He therefore pleaded that the loss claimed by the assessee for Rs. 11,07,867/- be allowed.

6. Per contra, the Ld. DR relied on the orders of the Ld.Revenue Authorities and argued in support of the same.

7. We have heard both the sides and perused the material available on record as well as the orders of the Ld. Revenue Authorities. Admittedly, it is noticed from the income tax returns filed for the AY 2016-17 on 31/3/2017, the assessee has claimed loss of Rs. 11,07,876/- being current year loss under the head 'income from house property'. The assessee has also disclosed an amount of Rs. 6,99,940/- as income from other sources. However, the Ld. AO while computing the income of the assessee considered the addition made U/s. 69A along with income from other sources declared by the assessee aggregating to Rs.14,99,940/- (Rs.8,00,000 + 6,99,940). However, in Sl No. 8 'Losses of Current Year setoff', Ld. AO has stated an amount of Rs. 6,99,940/- erroneously. There is a merit in the argument of the Ld. AR wherein the loss claimed by the assessee is Rs.11,07,867/- which needs to be set off against the income from other sources being the loss arising out the income from house

property for the current assessment year. The loss claimed by the assessee under head income from house property while filing the return of income was never in dispute. We therefore have no hesitation to direct the Ld. AO to allow the loss of Rs.11,07,867/- as claimed by the assessee. Thus, the grounds raised by the assessee are allowed.

8. In the result, appeal filed by the assessee is allowed.

Pronounced in the open Court on 20th February, 2025.

Sd/- (श्री के नरसिम्हा चारी) (K NARASIMHA CHARY) न्यायिकसदस्य/JUDICIAL MEMBER	Sd/- (एस बालाकृष्णन) (S.BALAKRISHNAN) लेखा सदस्य/ACCOUNTANT MEMBER
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Dated : 20.02/2025
OKK - SPS

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

1. निर्धारिती/ The Assessee – Seethamraju Satya Surya Venkata Uma Rani, Plot No.3, JB Complex, Srinagar Junction, Old Gajuwaka, Visakhapatnam, Andhra Pradesh-530026.
2. राजस्व/The Revenue – Income Tax Officer, Ward-5(4), O/o. ITO, Direct Taxes Building, MVP Colony, Visakhapatnam, Andhra Pradesh-530017.
3. The Principal Commissioner of Income Tax,
4. आयकर आयुक्त (अपील)/ The Commissioner of Income Tax
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापटणम/ DR, ITAT, Visakhapatnam
6. गार्ड फ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam