

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ में
IN THE INCOME TAX APPELLATE TRIBUNAL
VISAKHAPATNAM BENCH, VISAKHAPATNAM

BEFORE

SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER
&
SHRI BALAKRISHNAN S, ACCOUNTANT MEMBER

आ.अपी.सं / ITA No.78/Viz/2024
(निर्धारण वर्ष / Assessment Year: 2016-17)

P.V.Raghavulu Eluru [PAN : AAIHP9021Q]	Vs. Income Tax Officer Ward-2 Eluru
अपीलार्थी / Appellant	प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Shri C.Subrahmanyam, AR
राजस्व द्वारा/Revenue by: Dr.Satyasai Rath,CIT-DR

सुनवाई की तारीख/Date of hearing: 10/02/2025
घोषणा की तारीख/Pronouncement on: 07/03/2025

आदेश / ORDER

PER K. NARASIMHA CHARY, J.M:

Aggrieved by the order dated 30/01/2024 passed by the learned Commissioner of Income Tax (Appeals), ("learned CIT(A)"), National Faceless Appeal Centre, Delhi in the case of P.V.Raghavulu ("the assessee") for the assessment year 2016-17, assessee preferred this appeal.

2. Brief facts of the case are that assessment in the case of the assessee was completed and the learned Assessing Officer passed an order under section 143(3) of the Income Tax Act ("the Act") by making addition of Rs.5,72,51,013/- towards long term capital gains and initiated penalty proceedings under section 271(1)(c) of the Act.

3. Aggrieved by the order of the learned Assessing Officer, assessee preferred an appeal before the learned CIT(A). With regard to long term capital gains, the learned CIT(A) observed that the learned Assessing Officer's finding that the amount of Rs.6,25,88,513/- (being saleable Fair Market Value of developed plots measuring 29,288 square yards as claimed by assessee in its P&L account reduced by the market value of agricultural land @Rs.53,37,500/- (10.675 acres of land @Rs.5,00,000/-) per acre as is evident from the Land Conversion Order dated 14/04/2014) is required to be brought to long term capital tax is erroneous on facts and circumstances. Learned CIT(A) held that the market value of agricultural land @Rs.53,37,500/- is to be treated as market value of capital asset has been converted into stock-in-trade by the assessee. He further observed that the learned Assessing Officer has not brought on record any finding to the fact as to what was the indexed cost of acquisition of the agricultural land and directed the learned to Assessing Officer to compute the long term capital gain by allowing deduction on account of indexed cost of acquisition out of the fair market value of Rs.53,37,500/- at which the appellant has converted capital asset into stock-in-trade.

4. With regard to computation of business income, learned CIT(A) observed that when the converted capital asset is sold by the assessee as stock-in-trade, only the difference between sale price and market value of the stock-in-trade on the date of the conversion of the capital asset can be regarded as profit accruing to the assessee from the transaction. He, therefore, directed the learned Assessing Officer to work out the business income after conversion of capital asset into stock-in-trade under the head "Business Income" as per the provisions of the Act.

5. By holding so, learned CIT(A) vide para 6 of the order dismissed the appeal of the assessee in a contradictory manner against to his own findings at para 5 to 5.1.5. of his order. He, therefore, prayed to set aside the order of the learned CIT(A) and allow the appeal filed by the assessee.

6. Learned DR has not raised any objection and conceded to the plea of the learned AR.

7. We have gone through record in light of the submissions made on either side. As evident from the order of the learned CIT(A), he directed the learned Assessing Officer to compute income under two heads namely 'income from capital gain' and 'income from business' as specified in his order. We concur with the findings of the learned CIT(A) and therefore, inclined to allow the appeal filed by the assessee. We hold and order so. Grounds are answered accordingly.

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

Order pronounced in the Open Court on 7th March, 2025.

Sd/-
(BALAKRISHNAN S.)
ACCOUNTANT MEMBER

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad,

Dated: 07/03/2025

L.Rama, SPS

Copy forwarded to:

1. Shri P.V.Raghavulu, 24C-11, Opp Golden Tobacco Godowns, Manchineella Thota, Pathebada, Andhra Pradesh
2. The Income Tax Officer, Ward-2, Eluru
3. The Pr.CIT, Visakhapatnam
4. The DR, ITAT, Visakhapatnam
5. GUARD File

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SENIOR PRIVATE SECRETARY
ITAT, VISAKHAPATNAM