

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.41/Viz/2025
(निर्धारण वर्ष / Assessment Year: 2016-17)

Income Tax Officer Vs. Kandregula Peddi Raju
Kakinada Narasapuram
[PAN : ANDPR9130L]

अपीलार्थी / Appellant प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: None

राजस्व द्वारा/Revenue by: Dr.Aparna Villuri, DR

सुनवाई की तारीख/Date of hearing: 03/03/2025

घोषणा की तारीख/Pronouncement on: 07/03/2025

आदेश / ORDER

PER K. NARASIMHA CHARY, J.M:

Aggrieved by the order dated 27/11/2024 passed by the learned Commissioner of Income Tax (Appeals), ("learned CIT(A)")-10, Hyderabad in the case of Shri Kandregula Peddi Raju ("the assessee") for the assessment year 2016-17, revenue preferred this appeal.

2. Brief facts of the case are that assessment in the case of the assessee was completed and order under section 147 read with section 144 of the Income Tax Act, 1961 ("the Act") dated 30.03.2022 was passed by the learned Assessing Officer by treating the sale consideration of Rs.57,64,432/- received (after giving indexation on the cost of acquisition) as undisclosed long term capital gains, cash deposits in the two bank accounts totalling to

Rs.1,90,60,000/- as unexplained cash deposits under section 69 of the Act and interest income amounting to Rs.14,573/- under the head 'income from other sources'.

3. Penalty proceedings under section 271D of the Act were initiated for violation of provisions of 269SS and a penalty of Rs.60,25,000/- was levied, wherein, the assessee has accepted cash amounting to Rs.60,25,000/- as sale consideration against sale of immovable property vide Document No.4767/2015 dated 17.11.2015.

4. Aggrieved by the penalty order, assessee preferred an appeal before the learned CIT(A) and the learned CIT(A) set aside the assessee's case to the file of the learned AO for fresh consideration as the assessee remained non-compliant during the reassessment proceedings and the AO passed ex-parte orders. Learned CIT(A) held that in view of the fact *the quantum assessment proceedings has been set aside to the file of the AO for fresh consideration, adjudication on the appeal against the penalty becomes infructuous, hence not adjudicated* and dismissed the appeal for statistical purposes.

5. Aggrieved by the order of the learned CIT(A), Revenue preferred appeal before the Tribunal and contended that the learned CIT(A) erred in holding that the penalty under section 271D becomes infructuous on the ground that the quantum assessment proceedings were set aside, without appreciating the fact that the penalty proceedings under section 271D are independent in nature and has no nexus with the set aside quantum assessment proceedings. . Learned DR further contended that the assessee himself admitted that he had received cash of Rs.60,25,000/- on sale of immovable property, in violation of provisions of section 269SS and thus the penalty proceedings under section 271D are valid and the outcome of quantum assessment proceedings have no bearing on the penalty proceedings.

6. None appeared for the assessee during the course of hearing of the appeal.

7. We have gone through the record in light of submissions made by the Ld.DR. It is evident that in view of amendment to section 251 of Income Tax

Act, 1961, vide Finance Act, 2021 with effect from 1st day of October, 2024 the learned CIT(A) set aside the case of the assessee to the file of the Assessing Officer as the assessee remained non-compliant during the assessment proceedings and held that since the quantum assessment proceedings has been set aside to the file of the AO for fresh consideration, adjudication on the appeal against the penalty becomes infructuous. In these factual circumstances, we deem it appropriate to set aside the impugned order and restore the appeal to the file of the learned AO to dispose of the issue along with quantum appeal.

8. In the result, the appeal of the Revenue is allowed for statistical purpose.

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

Sd/-
(BALAKRISHNAN S.)
ACCOUNTANT MEMBER

Hyderabad,
Dated: 07/03/2025
L.Rama, SPS

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Copy forwarded to:

1. The Income Tax Officer, Room No.8, Income Tax Office, 3rd Floor, Sri Deepthi Towers, Main Road, Kakinada
2. Shri Kandregula Peddi Raju, Door No.14-3-46, Jekkam vari Street, Narsapuram Bazar, Narsapuram
3. The Pr.CIT, Visakhapatnam
4. The DR, ITAT, Visakhapatnam
5. GUARD File

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SENIOR PRIVATE SECRETARY
ITAT, VISAKHAPATNAM