

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

**IN THE INCOME TAX APPELLATE TRIBUNAL
VISAKHAPATNAM "SMC" BENCH, VISAKHAPATNAM**

श्री वी. दुर्गा राव, न्यायिक सदस्य, एवं श्री एस बालाकृष्णन, लेखा सदस्य के समक्ष
**BEFORE SHRI V. DURGA RAO, HON'BLE JUDICIAL MEMBER
&
SHRI S BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER**

आयकर अपीलसं./I.T.A. No.83/VIZ/2025
(निर्धारण वर्ष/ Assessment Year: 2020-21)

Tadikamalla Poorna Chandra Sekhara Rao 12-6-36/4/9, Flat No. 408 MJR Solitaire, Moosapet Balanagar, Sanathnagar IE -530018 Telangana [PAN: ABBPT5790J] (अपीलार्थी/ Appellant)	v.	Income Tax Officer Palakonda Road – 532001 Andhra Pradesh (प्रत्यर्थी/ Respondent)
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करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri I. Kama Sastry, CA
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Dr. Aparna Villuri, Sr.AR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	12.06.2025
घोषणा की तारीख/Date of Pronouncement	:	17.06.2025

आदेश /ORDER

PER V. DURGA RAO, JM:

- The captioned appeal is filed by the assessee against order of the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal centre, Delhi [hereinafter in short "Ld.CIT(A)"] vide DIN & Order No. ITBA/NFAC/S/250/2024-25/1065956077(1) dated 24.06.2024 for the A.Y.2020-21

arising out of order passed under section 154 of Income Tax Act, 1961 (in short 'Act') dated 06.02.2024.

2. Facts are in brief are that, assessee filed return of income on 31.10.2020 showing the gross total income of Rs.7,08,213/- including the business income of Rs.3,23,453/-. The case of the assessee is that while filing the particulars of return of income, the Tax Return Preparer, instead of filing the particulars of capital gains section and thereby showing the calculation of short term capital loss of Rs.13,64,912/- has erroneously shown as negative figure in the gross profit column of the business income as a speculative loss. Assessee filed a rectification petition before Ld. AO and the same was rejected. Ld. CIT(A) also confirmed the same by observing as under:

"5. Decision: I have considered the submission carefully. All grounds pertain to the issue of non consideration of short term capital loss by CPC.

5.1 This appeal is filed against order u/s: 154, rejecting rectification request and computing total income at Rs 22,22,130/- (same as in the intimation u/s 143(1)) as against returned income of Rs 5,08,210/-. As per the appellant, the difference has occurred due to wrong entries in the return of income whereby the appellant had entered short term capital loss of Rs.13.40,461/- under the columns pertaining to business income instead of under the columns pertaining to short term capital loss.

5.2 I have considered the submission of the appellant and perused the IRs and other records. It is submitted by the appellant that he has offered income from speculation business of Rs 323453/- as the taxable income. However, in addition to such speculation activity, he had sold certain investments in shares and units which resulted in short term capital loss of Rs. 13,64,912/-. The breakup of the same has been provided in in the submission as annexure B. It is submitted that while filling the particulars in the return of income, the tax return preparer, instead of filling particulars in capital gains section and thereby showing calculation of short term capital loss of Rs. 1364912/- had erroneously shown as negative figure in

the gross profit column of the business income as speculation loss. The appellant has provided with submission copy of consolidated statement issued by Zerodha Stockbroking Services showing net result of speculation activity as well as short term capital loss.

5.3 It is seen that the appellant has filed the return of income on the 30.10.2020 showing gross total income of Rs 7,08,213/- including business income of Rs 323453/-. In the intimation, gross total income was computed at Rs 23,72, 1271-including business income of Rs 19,87,367/-. Explaining the difference of Rs 16,63,915/-, the appellant has stated short term capital loss of Rs 13,64,912 has been added to total income by CPC. No details of remaining amount are filed. It appears that the appellant is only aggrieved by addition of Rs 13,64,912/-.

5.4 As stated by appellant, the difference has occurred due to entries in wrong columns of return of income. The appellant has not filed a revised return correcting these entries. The processing done by CPC is on the basis of entries made by an assessee. On perusal of Schedule CG: Capital Gains of the return of income, it is seen that there are no entries. In Col. 65 of Part A-P & L- Profit and Loss Account, the appellant has entered -1340461 as Gross Profit as well as Net Income From Speculative Activity. Even there, other details like turnover and expenditure are not mentioned. Thus, there is no basis in the return of income supporting calculation of short term capital loss given in the submission. Therefore, there cannot be said to be any mistake present in the intimation, much less a mistake apparent from records which could have been rectified u/s 154. Accordingly it is held that CPC has correctly rejected the rectification application i.e. not changed total income and tax liability computed in intimation.”

3. On being aggrieved, assessee filed an appeal before the Tribunal by raising following grounds in its appeal: -

“1. The CPC is not justified in treating Rs. 13,40,461/- short term capital loss as business income and levying tax on the same and the CIT(Appeals), National Faceless assessment Centre is not justified in confirming the same.”

4. When this appeal is taken up for hearing, Ld. Counsel for the assessee submitted that it is a bonafide mistake committed by the tax preparer and it can be rectified and submitted that the appeal may be sent back to the jurisdictional Ld. AO to consider the details and pass the orders on merits.

5. On the other hand, Ld. DR supported the orders of the authorities below.
6. We have heard both the sides and perused the orders of the authorities below. The only issue for consideration is that there is a mistake committed by tax preparer i.e., instead of filing particulars of capital gains section thereby showing the calculation of short term capital loss of Rs. 13,64,912/- has erroneously shown as negative figure in the gross profit column of the business income as a speculative loss. This mistake can be rectified by giving opportunity to the assessee. We are of the opinion that if at all there is a mistake, after verifying the details filed by the assessee, the same can be considered and pass the orders in accordance with law. In view of the above we set-side the orders passed by the Ld. CIT(A) and remit the appeal back to the file of jurisdictional Ld. AO to consider the case of the assessee afresh and pass orders in accordance with law.
7. In the result appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 17th June, 2025.

Sd/-

(एस बालाकृष्णन)

(S. BALAKRISHNAN)

लेखा सदस्य/ACCOUNTANT MEMBER

Dated :17/06/2025

Giridhar, Sr.PS

Sd/-

(वी. दुर्गा राव)

(V. DURGA RAO)

न्यायिक सदस्य/JUDICIAL MEMBER

आदेशकीप्रतिलिपिअग्रेषित/ Copy of the order forwarded to :-

1. निर्धारिती/ The Assessee : **Tadikamalla Poorna Chandra Sekhara Rao**
12-6-36/4/9, Flat No. 408
MJR Solitaire, Moosapet
Balanagar, Sanathnagar IE -530018
Telangana
2. राजस्व/ The Revenue : **Income Tax Officer**
Palakonda Road – 532001
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

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam