

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

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

(HYBRID HEARING)

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.265/VIZ/2025
(निर्धारण वर्ष/ Assessment Year: 2021-22)

Kanchan Lalwani 22-1-22, PHHO Baugh Road Ambati Satram Junction Khadarnagar, Vizianagaram – 535002 Andhra Pradesh [PAN: ABEPL4375Q] (अपीलार्थी/ Appellant)	v.	Pr.CIT -1 Aayakar Bhavan, Daba Gardens Visakhapatnam – 530020 Andhra Pradesh (प्रत्यर्थी/ Respondent)
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करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri Manoj G. Moryani
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Dr. Satyasai Rath, CIT(DR)
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:

1. The captioned appeal is filed by the assessee against order of the Learned Pr.Commissioner of Income Tax, Visakhapatnam-1 [hereinafter in short "Ld.Pr.CIT"] vide DIN & Order No. ITBA/COM/F/17/2024-25/1075119468(1) dated 27.03.2025 for the A.Y. 2021-22.

2. Brief facts of the case are, assessee is an individual filed his return of income by declaring total income of Rs. 10,19,929/-. The case was selected for scrutiny in respect of cash deposits in the bank and also purchase of immovable property. Ld. Assessing Officer [hereinafter in short "Ld. AO"] after following the due procedure, completed the assessment under section 143(3) r.w.s. 144B of the Act on 27.12.2022 by determining the total income of Rs.1,20,60,680/- by making addition of Rs.65,00,000/- under section 68 of the Act towards unexplained cash credit and Rs.45,40,750/- towards disallowance under section 56(2)(x) of the Act.

3. Subsequently, by exercising the power conferred under section 263 of the Act, Ld.Pr.CIT came to the conclusion that the order passed by the Ld. AO is erroneous and prejudicial to the interest of the revenue and issued show-cause notice to the assessee dated 23.10.2023. Assessee has filed the details as called by the Ld.Pr.CIT. Ld.Pr.CIT after considering the reply filed by the assessee, came to the conclusion that there is a short computation of income of Rs.14,85,000/- which required to brought to tax under section 68 of the Act directed the Ld. AO to make an addition of Rs.14,85,000/- under section 68 of the Act. So far as cash deposits of Rs.10,50,000/- is concerned, Ld.Pr.CIT directed the Ld. AO to examine and pass fresh order in accordance with law.

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

“1. The order passed U/s. by the Ld. Pr. Commissioner of Income Tax (PCIT- 1), Visakhapatnam-1 is illegal, invalid and bad in law;

2. The Ld. PCIT-1 ought to have consider order passed U/s. 143(3) r.w.s. 144B by the assessing officer in which all the issues were discussed and considered all the issue at the time of assessment proceedings and the assessing officer has considering all the aspect and made addition, therefore order passed U/s. 263 by the PCIT-1 is unjustified, unwarranted and excessive;

3. The Ld. PCIT-1 ought to have considered order passed U/s. 143(3) r.w.s. 144B by the assessing officer is not erroneous and not prejudicial in the interest of revenue. Therefore order passed U/s. 263 is unjustified, unwarranted and excessive;

4. The Ld. PCIT-1 erred in making addition of Rs.14,85,000/- on the basis of difference in cash deposited in banks of the assessee when the assessing officer has already verified and test checked the bank details during the course of assessment proceedings and made addition of Rs. 65,00,000/- U/s. 68, therefore again making addition at Rs. 14,85,000/- U/s. 68 is illegal, invalid and bad in law;

5. The Ld. PCIT-1 erred in further making addition of Rs. 10,50,000/- on the basis of difference in cash deposited in Punjab National Bank when the assessing officer has already verified and test checked entire details of Punjab National Bank during the course of assessment proceedings and made addition U/s. 68, therefore again making addition at Rs. 10,50,000/- U/s. 68 is illegal, invalid and bad in law;

6. The Ld. PCIT-1 erred in not considering that the assessing officer has already made addition of Rs.65,00,000/- U/s. 68 and examined all the details, again making addition of Rs. 25,35,000/- amounts to double taxation, therefore order passed is unjustified, unwarranted and excessive;

7. The Ld. PCIT-1 has not considered the entire written submission and cash balance were duly reflected in capital position of the assessee and without going into merits of the case passed the order U/s. 263, therefore the order passed is unjustified, unwarranted and excessive;

8. The appellant seeks permission to add any other ground of appeal or amend or alter the aforesaid ground of appeal.”

5. The Learned counsel for the assessee submitted that, Ld.Pr.CIT has invoked provisions of section 263 of the Act on the ground that there is a short computation of income of Rs.14,85,000/- and also difference in cash deposits of

Rs.10,50,000/-. The Ld. Counsel for the assessee submitted that both the issues raised by the Ld.Pr.CIT has been considered by Ld. AO by issue of show-cause notice and relevant details are filed and submitted that it is not a fit case to invoke revisional jurisdiction in this case. Further, the issues raised by the Ld.Pr.CIT with respect to cash deposits, Ld. AO already examined all the details and addition was made to the tune of Rs. Rs.65,00,.000/-. In so far as section 56(2)(x) is concerned, Ld. AO has examined all the details and addition was already made Rs.45,40,750/- and detailed assessment order was passed. Once Ld. AO has examined the issue and passed a detailed order, the Ld.Pr.CIT have no jurisdiction to interfere with the order passed by the Ld.AO by invoking provisions of section 263 of the Act. Ld. Counsel for the assessee pointed out from the paper book page no. 20 various details called by the Ld. AO, which is reproduced below: -

- “1) Kindly submit a detailed note on your business/profession.*
- 2) With respect to the income for the year under consideration and large cash deposits in bank account/s, kindly submit the following details;*
 - a) Detailed computation of Total income for the F.Y.2020-21 relevant to the A.Y. 2021-22*
 - b) Please furnish details of all bank account(s) held during the year and copies of all the bank account statements held during the year along with documentary evidences.*
 - c) Explain the nature & Source of cash deposits made during the year along with documentary evidences, in support of the explanation, in support of the explanation.*
 - d) If any cash deposits have been withdrawn or transferred, detailed utilization or the same with documentary evidences.*
- 3) In respect to Transfer of immovable property, kindly submit the following details:*

- a) *Please furnish the copy of complete set of sale & purchase deeds of the properties sold by you. (if the deeds are in native language, please submit the contents of the deeds translated in English language)*
- b) *The details of payments received schedule including date and mode of receipts.*
- c) *Please provide the summary details/description of the property (ies) transferred during the year under consideration, Address of the property, date of purchase, purchase & sale consideration, stamp value, details of owner and share of each owner, Address of sub-registrar office etc.*
- d) *Copies of bank statement of the bank accounts highlighting the payments received in respect of property sold/purchased during the year.*
- e) *Please furnish detailed calculation of capital gains against the sale of properties.*
- g) *Please submit copy of all the documentary evidences in respect to the expenses incurred on cost of improvement of the property.”*

6. Ld. Counsel for the assessee also submitted that all the details are filed in Page Nos. 31, 32, 33, 34 of the paper-book, after examining all the details, Ld.AO passed the assessment order. Therefore, it is submitted that the order passed by the Ld. AO neither erroneous nor prejudicial to the interest of the revenue under section 263 of the Act and prayed that the order passed under section 263 of the Act may be quashed.

7. On the other hand, Ld. Departmental Representative [hereinafter in short “Ld. DR”] submitted that Ld. AO called the details but no proper enquiry was made. Ld. DR strongly supported the order passed by the Ld.Pr.CIT under section 263 of the Act.

8. We have heard both side and perused the orders and gone to the orders of the authorities below. In this case, assessee filed return of income declaring total income of Rs. 10,19,922/-. The case was selected for scrutiny in respect of cash deposits into the bank account and also purchase of immovable property. The Ld. AO after examining the bank details, details of the immovable property he made an addition in respect of unexplained cash credit to the tune of Rs.65,00,000/- and Rs.45,40,750/- towards disallowances under section 56(2)(x) of the Act.

9. Ld.Pr.CIT again examined both the issues and he came to the conclusion that Ld. AO has not made a proper enquiry and the Ld.Pr.CIT has directed the Ld. AO to make further addition of Rs.14,85,000/- under section 68 of the Act towards unexplained cash credit and directed the Ld. AO to further enquire about Rs.10,50,000/- cash deposits.

10. We have gone through the details filed by the assessee in the paper book, Ld. AO has called all the relevant details and also assessee filed all relevant details Page No. 31 to 34 of paper book. The Ld. AO after examining all the details, passed detailed assessment order. We have gone through the assessment order and Ld. AO has discussed each and every aspect in the assessment order in respect of lack of enquiry pointed by the Ld.Pr.CIT. We find that when the Ld.AO has called all the details, assessee has filed the same before Ld. AO, after examining the same Ld. AO made an addition in respect of two issues as pointed

by the Ld.Pr.CIT as lack of enquiry, on that ground 263 cannot be issued. Keeping in view, facts and circumstances of the above, we are of the opinion that 263 order has to be quashed. Accordingly, order passed under section 263 of the Act by the Ld.Pr.CIT dated 27.03.2025 is quashed.

11. In the result, appeal of the assessee is allowed.

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 : **Kanchan Lalwani**
22-1-22, PHHO Baugh Road
Ambati Satram Junction
Khadarnagar, Vizianagaram – 535002
Andhra Pradesh
2. राजस्व/ The Revenue : **Pr.CIT -1**
Aayakar Bhavan, Daba Gardens
Visakhapatnam – 530020
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