

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

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

(HYBRID HEARING)

**श्री विजय पाल राव, उपाध्यक्ष, एवं श्री एस बालाकृष्णन, लेखा सदस्य के समक्ष
BEFORE SHRI VIJAY PAL RAO, HON'BLE VICE PRESIDENT**

&

SHRI S BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER

आयकर अपीलसं./I.T.A.No.346/VIZ/2025

(निर्धारणवर्ष/ Assessment Year: 2023-24)

Shamrock Apparels D.No. 9-29-20, 2 nd Floor Siripuram, Visakhapatnam Pin code: 530003 Andhra Pradesh [PAN:ACPFS3513B] (अपीलधर्ती/Appellant)	Vs.	Income Tax Officer-Ward – 1(1) Income Tax office Pratyakshakar Bhavan MVP Double Road Visakhapatnam – 530017 Andhra Pradesh (प्रत्यर्ती/Respondent)
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करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri GVN Hari, Advocate
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Dr. Aparna Villuri, Sr. AR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	17.07.2025
घोषणा की तारीख/Date of Pronouncement	:	25.07.2025

आदेश /O R D E R

PER SHRI S BALAKRISHNAN, ACCOUNTANT MEMBER:

1. This appeal is filed by the assessee against order of Learned Commissioner of Income Tax (Appeals)/ADDL/JCIT(A)-11, Delhi [hereinafter in short "Ld.CIT(A)"] vide DIN & Order No. ITBA/APL/S/250/2024-

25/1074980923(1) dated 25.03.2025 for the A.Y.2023-24 arising out of the order passed under section 143(1) of Income Tax Act, 1961 (in short 'Act') dated 07.11.2024.

2. Brief facts of the case are that, assessee is a partnership firm engaged in apparel business and filed return of income on 30.07.2023 admitting total income of Rs.13,37,00,120/- for the A.Y. 2023-24. The Centralized Processing Center (in short "CPC") processed the return and issued the Intimation under section 143(1) of the Act on 07.11.2024. In the Intimation, the CPC made adjustment of Rs.31,22,331/- under the head Long term capital gains. The CPC computed the Long-term capital gains at Rs.13,43,99,752/- as against the Long term capital gains of Rs.13,12,77,421/-.

3. On being aggrieved by the adjustment made by the Ld. AO, assessee filed an appeal before Ld. CIT(A). Ld. CIT(A) upheld the order of the Ld. AO since assessee has not responded to any of the notice / opportunities provided to the assessee.

4. On being aggrieved by the order of the Ld. CIT(A), assessee is in appeal before us by raising following grounds of appeal: -

"1. The order of the learned Commissioner of Income Tax (Appeals) is contrary to the facts and also the law applicable to the facts of the case.

2. The learned Commissioner of Income Tax (Appeals) is not justified in deciding the appeal ex-parte.

3. *The learned Commissioner of Income Tax (Appeals) is not justified in sustaining the adjustment of Rs 31,22,331 made by the CPC towards long term capital gains by erroneously computing the indexed cost of acquisition.*

4. *Any other ground that may be urged at the time of appeal hearing.”*

5. At the outset, Ld. Authorised Representative [hereinafter “Ld.AR”] submitted that the Ld. CIT(A) has passed the order without providing sufficient opportunities to the assessee. He further pleaded that the assessee could not respond to the notices issued by the Ld. CIT(A). He therefore prayed for one final opportunity before Ld. CIT(A) to submit the relevant documents.

6. Per contra, Ld. Departmental Representative [hereinafter in short “Ld.DR”] strongly objected to the plea of the Ld.AR and vehemently argued that revenue has provided ample opportunities to the assessee as detailed in their respective orders. However, assessee has failed to comply with the notices issued by the Revenue Authorities. She therefore pleaded that the no further opportunity should be granted and prayed of upholding the order of the Ld.CIT(A).

7. We have heard rival contentions and perused the material available on record. It is an undisputed fact that the assessee has not fully complied with the notices and has also not responded to the various notices issued to the assessee as detailed in the order of the Ld. CIT(A). In the interest of natural justice, considering the plea of the Ld.AR and considering the huge demand, we are of

the considered view that assessee may be provided one final opportunity to substantiate the case before Ld. CIT(A). Needless to say, that the assessee should cooperate with the remand proceedings failing which the Ld. CIT(A) is at liberty to decide the case based on the material available on record. Accordingly, the grounds raised by the assessee are statistically allowed.

8. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 25th July, 2025.

Sd/-
(विजय पाल राव)
(VIJAY PAL RAO)
उपाध्यक्ष/VICE PRESIDENT
Dated: 25.07.2025
Giridhar, Sr.PS

Sd/-
(एस बालाकृष्णन)
(S. BALAKRISHNAN)
लेखा सदस्य/ACCOUNTANT MEMBER

आदेशकीप्रतिलिपिअग्रेषित/ Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee : **Shamrock Apparels**
D.No. 9-29-20, 2nd Floor
Siripuram, Visakhapatnam
Pin code: 530003
Andhra Pradesh
2. राजस्व/ The Revenue : **Income Tax Officer-Ward – 1(1)**
Income Tax office
Pratyakshakar Bhavan
MVP Double Road
Visakhapatnam – 530017
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