

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

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

(HYBRID HEARING)

**श्री रवीश सूद ,न्यायिक सदस्य एवं श्री एस बालाकृष्णन, लेखा सदस्य के समक्ष
BEFORE SHRI RAVISH SOOD, HON'BLE JUDICIAL MEMBER**

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SHRI S BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER

आईटीए. नं. / ITA No. 360/VIZ/2025 (A.Y. 2012-13)

Cheerla Srinivas D.No. 23-12-1 Near Water Tank Sajjapuram, Tanuku – 534211 Andhra Pradesh [PAN:AGFPC1785P]	v.	Income Tax Officer - Ward – 1 Income Tax Office Aayakar Bhavan, Sajjapuram Tanuku
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)

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	:	07.08.2025
घोषणा की तारीख/Date of Pronouncement	:	22.08.2025

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), Bhubaneswar [hereinafter in short "Ld.CIT(A)"] vide DIN & Order No. ITBA/APL/S/250/2024-25/1074372278(1) dated 11.03.2025 for the A.Y.2012-13 arising out of the order passed under

section 143(3) r.w.s. 147 of Income Tax Act, 1961 (in short 'Act') dated 26.12.2019.

2. Brief facts of the case are that, assessee is an individual and carrying on the business of purchase and sale of liquor in the name and style of 'Super Wines' at Mukkamala. Assessee has filed his return of income for the A.Y.2012-13 on 18.09.2012 admitting total income of Rs.6,15,780/- and the return was summarily processed. Subsequently, Ld. Assessing Officer [hereinafter in short "Ld. AO"] received information that there were cash deposits of Rs.1,42,68,720/- in the bank account of one Sri Telagareddy Vijay Kumar. The Ld. AO enquired into the matter and found that the above said person was accountant of the assessee and that the amounts deposited in his bank account belong to the assessee. Thereafter, Ld. AO issued notice under section 148 of the Act on 31.03.2019. In response to notice under section 148 of the Act, assessee filed return of income on 27.11.2019 admitting the same income as originally admitted. Subsequently, statutory notices under section 143(2) and 142(1) of the Act were issued and served on the assessee, calling for certain information. In response, assessee furnished computation statement, audit report in 3CB & 3CD Trading, P & L A/c, Balance sheet and copies of bank statement, and submitted that Shri Telagareddy Vijay Kumar deposited the sale proceeds of liquor business in assessee's account. Not convinced with the submissions of the assessee, Ld. AO completed the assessment under section 143(3) r.w.s. 147 of the Act on 26.12.2019 determining the income of the assessee at Rs.13,63,640/- by making addition of

Rs.13,48,237/- being 5% of the stock put to sale i.e., Rs.2,70,70,113/- and also added interest on FDR of Rs.15,403/-.

3. On being aggrieved by the order of the Ld. AO, assessee preferred an appeal before Ld. CIT(A). Ld. CIT(A) dismissed the appeal of the assessee as infructuous.

4. On being aggrieved by the order of the Ld. CIT(A), assessee is in appeal before us by raising following revised 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) erred in dismissing the appeal as infructuous by stating that this appeal has been already disposed by the NFAC vide Order no. ITBA/NFAC/S/250/2022-23/1047737239(1) dt.30.11.2022.

3. The learned Commissioner of Income Tax (Appeals) is not justified in sustaining the addition of Rs.7,47,860 made by the assessing officer towards business income estimated at 5% by adopting the purchases at Rs.2,70,70,113 as against actual purchases of Rs.81,41,817.

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 erred in considering the decision in ITBA/NFAC/S/250/2022-23/1047737239(1) dated 30.11.2022 pertains to the assessee and hence rejected the appeal as infructuous. He further submitted that the order number quoted by the Ld. CIT(A) belongs to another assessee and does not belong to the assessee in appeal. He therefore pleaded that file may be remitted back to the file of Ld. CIT(A) for fresh adjudication on merits.

6. Per contra, Ld. Departmental Representative [hereinafter in short "Ld.DR"] relied on the order s of the Ld. CIT(A).

7. We have heard both the sides and perused the material available on record. It is an undisputed fact that the Ld. CIT(A) while rejecting the appeal as infructuous has considered the order No. ITBA/NFAC/S/250/2022-23/1047737239(1) dated 30.11.2022 pertain to Shri Dhana Raju Thota as the appeal filed by the assessee. The extract of the first page of the Ld. CIT(A) order is displayed below: -

GOVERNMENT OF INDIA MINISTRY OF FINANCE INCOME TAX DEPARTMENT OFFICE OF THE COMMISSIONER OF INCOME TAX, APPEAL ADDL/JCIT (A) BHUBANESWAR			
To, SRINIVAS CHEERLA 23-12-1 - NEAR WATER TANK SAJJAPURAM TANUKU 534211, Andhra Pradesh India			
PAN: AGFPC1785P	AY: 2012-13	Dated: 11/03/2025	DIN & Order No : ITBA/APL/S/250/2024-25/1074372278(1)
Order u/s 250 of Income Tax Act,1961			
<i>Instituted on 23/01/2020 from the order of WARD - 1, TANUKU dated 26/12/2019</i>			
Appeal No	CIT (A), Rajahmundry/10369/2019-20		
Status/Deductor Category	Individual		
Residential Status	Resident		
Nature of Business	Others		
Section under which the order appealed against was passed	143(3)r.w.s147		
Date of Order under which the order appealed against was passed	26/12/2019		
Income/Loss Assessed (in Rs.)	1363640		
Tax/Penalty/Fine/Interest Demanded (in Rs.)	394850		
Date of Hearing(s)	As per record(s)		
Present for the appellant	Not Applicable		
Present for the Department	Not Applicable		
<p>This Appeal has been instituted on 23.01.2020 against the order u/s 143(3)r.w.s147of the Income-tax Act, 1961 dated 26/12/2019 for the A.Y. 2012-13 wherein, while framing the assessment order U/s 143(3)r.w.s147 of the Income-tax Act, 1961(herein after the Act), the A.O has made addition of Rs. 7,47,860/- and has raised tax demand of Rs. 3,94,850/-. The impugned order was served on 26/12/2019. Aggrieved with such additions the assessee is in appeal before the undersigned.</p>			
Note: If digitally signed, the date of digital signature may be taken as date of document.			
<p>te:- The website address of the e-filing portal has been changed from www.incometaxindiaefiling.gov.in to www.incometax.gov.in. IN- Document identification No.</p>			



भारत सरकार / GOVERNMENT OF INDIA
वित्त मंत्रालय / MINISTRY OF FINANCE
आयकर विभाग / INCOME TAX DEPARTMENT
राष्ट्रीय पहचानविहीन अपील केन्द्र / NATIONAL FACELESS APPEAL CENTRE (NFAC)
दिल्ली / DELHI

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To,
DHANA RAJU THOTA
1-60 NEAR CHERUVU ,KOMARAVARAM POST TANUKU
MANDAL
WEST GODAVARI 534211 ,Andhra Pradesh
India

PAN: AKXPT7418C	AY: 2012-13	Dated: 30/11/2022	DIN & Order No : ITBA/NFAC/S/250/2022-23/1047737239(1)
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Order u/s 250 of Income Tax Act, 1961

Instituted on 23/01/2020 from the order of WARD - 1, TANUKU dated 26/12/2019

Appeal No	CIT (A), Rajahmundry/10370/2019-20
Status/Deductor Category	Individual
Residential Status	Resident
Nature of Business	Others
Section under which the order appealed against was passed	143(3)r.w.s147
Date of Order under which the order appealed against was passed	26/12/2019
Income/Loss Assessed (in Rs .)	833945
Tax/Penalty/Fine/Interest Demanded (in Rs.)	158360
Present for the appellant	Not Applicable
Present for the Department	Not Applicable

1. This appeal has been filed against the order u/s. 143(3) r.w.s. 147 of the I.T. Act, 1961 (hereinafter referred to as 'the Act') dated 26.12.2019 passed by the Ward-1, Tanuku (hereinafter referred to as the "AO" for the Assessment year 2012-13, wherein the Assessing Officer determined the assessed income at Rs. 8,33,945/-.

Note:- The website address of the e-filing portal has been changed from www.incometaxindiaefiling.gov.in to www.incometax.gov.in.

8. It is apparent that the Ld. CIT(A) has erred in considering Shri Dhanaraju Thota as appellant in the appeal of the assessee and thereby rejected the appeal

filed by the assessee as infructuous. In these circumstances, considering the plea of the Ld.AR, we remit the matter back to the file of Ld. CIT(A) to adjudicate the case on merits in accordance with law by providing an opportunity of being heard to the assessee. Thus, grounds raised by the assessee are allowed for statistical purposes.

9. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 22nd August, 2025.

Sd/-

(रवीश सूद)

(RAVISH SOOD)

न्यायिक सदस्य/JUDICIAL MEMBER

Dated:22.08.2025

Giridhar, Sr.PS

Sd/-

(एस बालाकृष्णन)

(S. BALAKRISHNAN)

लेखा सदस्य/ACCOUNTANT MEMBER

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee : **Cheerla Srinivas**
D.No. 23-12-1
Near Water Tank
Sajjapuram, Tanuku – 534211
Andhra Pradesh
2. राजस्व/ The Revenue : **Income Tax Officer - Ward – 1**
Income Tax Office
Aayakar Bhavan, Sajjapuram
Tanuku
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