

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ में
IN THE INCOME TAX APPELLATE TRIBUNAL
Visakhapatnam Bench

श्री रवीश सूद, माननीय न्यायिक सदस्य एवं श्री एस. बालकृष्णन, माननीय लेखा सदस्य
SHRI RAVISH SOOD, HON'BLE JUDICIAL MEMBER
AND
SHRI BALAKRISHNAN. S, HON'BLE ACCOUNTANT MEMBER,

आयकर अपील सं./I.T.A.No.297/Viz/2025
(निर्धारण वर्ष/ Assessment Year: 2021-22)

Bala Venkata Katyayani Dasu, R/o.Eluru. PAN : AGXPD4288N	Vs.	Income Tax Officer, Circle-1, Rajamahendravaram.
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)

करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri C.Subrahmanyam, C.A.
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Dr. Aparna Villuri, Sr.DR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	21.08.2025
घोषणा की तारीख/ Date of Pronouncement	:	29.08.2025

ORDER

प्रति रवीश सूद, जे.एम./PER RAVISH SOOD, J.M.

The present appeal filed by the assessee is directed against the order passed by the Addl/JCIT(A), Kochi, dated 17.03.2025, which in turn arises from the intimation passed by the A.O./CPC, Bengaluru u/s 143(1) of the Act dated 04.07.2022 for A.Y. 2021-22. The assessee has

assailed the impugned order on the following grounds of appeal before us:

- “1. That under the facts and circumstances of the case the order passed u/s 143(1) of the IT Act dt:04.07.2022 that was upheld by the Ld. ADDL/JCIT (A), Kochi, vide order passed u/s 250 of the IT Act dt: 17.03.2025 is not in accordance with facts of the case and provisions of law.
2. The Ld. ADDL/JCIT (A), Kochi has erred in law and on facts by treating and dismissing the impugned appeal as infructuous by wrongly observing that the intimation u/s 143(1) of the IT Act has merged with the subsequent rectification order passed u/s 154 of the IT Act.
3. The Ld. ADDL/JCIT (A), Kochi failed to appreciate that section 246 of the Act explicitly provides that both the intimation u/s 143(1) and the rectification order u/s 154 are separately. appealable.
4. The Ld. ADDL/JCIT (A), Kochi has failed to render a finding on the substantive issue under contest before him, by summarily rejecting the appeal on an unrelated and incorrect technical ground.
5. For these and other reasons that are to be urged at the time of hearing the appellant prays that the penalty imposed is liable to be deleted.”

2. Controversy involved in the present appeal lies in a narrow compass, i.e., sustainability of the order passed by the Addl/JCIT, Kochi, wherein he had dismissed the appeal filed by the assessee against the intimation issued under Section 143(1) of the Act, dated 04.07.2022, for the stand-alone reason that pursuant to the subsequent rectification order passed under Section 154 of the Act, dated 21.08.2022, the appeal filed against the intimation under Section 143(1) of the Act, dated 04.07.2022 was rendered as infructuous.

3. Succinctly stated, the assessee had filed his return of income for A.Y. 2021-22 on 31.01.2022, declaring an income of Rs. 5,33,370/-. Thereafter, the A.O./CPC, Bengaluru, vide intimation issued under Section 143(1) of the Act, dated 04.07.2022, had determined the business income of the assessee at Rs. 7,46,116/- as against that returned by the assessee at Rs. 4,45,765/-. On a perusal of the intimation issued under Section 143(1) of the Act, dated 04.07.2022, we find that the aforesaid adjustment was made based on an addition of Rs. 3,00,351/- at Serial Number 23 of “Annexure – Computation of Income from Business or Profession” of the Intimation under Section 143(1) of the Act.

4. Shri C. Subrahmanyam, learned Authorized Representative (for short “Ld.AR”) for the assessee, at the threshold of hearing of the appeal, submitted that the impugned addition of Rs. 3,00,351/- (supra) made by the A.O., vide intimation issued under Section 143(1) of the Act, comprised of, viz. (i). agriculture income: Rs. 40,000/-; (ii). short-term capital gain: Rs. 2,02,042/-; and (iii). speculative income: Rs. 58,309/- . Elaborating on his contention, the Ld. AR submitted that the A.O./CPC had made the impugned addition because the aforementioned incomes were not routed by the assessee through the “Profit and Loss account” and the said fact was disclosed by the auditor in his Tax Audit Report

(TAR). The Ld. AR submitted that though the subject incomes of Rs. 3,00,351/- (supra) were not routed through the “Profit and Loss account”, but, the same were separately disclosed by the assessee in his return of income for the subject year. The Ld. AR to buttress his claim that the aforementioned incomes were disclosed by the assessee in his return of income for the subject year, had taken us through the extract of the “return of income” that was placed on our record, which revealed, viz. (i). that the income from speculative business: Rs.58,309/-; and (ii) the income from short-term capital gain: Rs.2,02,042/- were included by the assessee in his total income. Apart from that, we find that the agriculture income of Rs.40,000/- was also disclosed by the assessee in his “return of income” for rate purposes. The Ld. AR submitted that as the aforementioned incomes had been duly offered for tax/included for rate purposes by the assessee, therefore, there was no justification for the A.O. to have made a separate addition of the same which, thus, had resulted to taxing the same income twice.

5. The Ld. AR further submitted that the Addl/JCIT(A), Kochi had grossly erred in law and on facts of the case in refraining from dealing with the aforesaid glaring mistake in the intimation issued u/s 143(1) of the Act, dated 04.07.2022, which, thus, had resulted to suffering of

double addition by the assessee based on the incorrect observations of the A.O. Elaborating further on his contention, the Ld. A.R submitted that the Addl/JCIT(A), Kochi had wrongly observed that as an order was passed by the A.O/CPC, Bengaluru under Section 154 of the Act, dated 21.08.2022, declining the assessee's request for rectification of the mistake in the impugned intimation issued u/s 143(1) of the Act, dated 04.07.2022, therefore, the said intimation passed by the A.O./CPC, Bengaluru had merged with the said subsequent rectification order which, thus, rendered the appeal filed by the assessee against the said impugned intimation u/s 143(1) of the Act as infructuous. .

6. Per contra, Dr. Aparna Villuri, learned Senior Departmental Representative (for short "Ld. DR") relied upon the orders of lower authorities.

7. We have thoughtfully considered the facts and issue involved in the present appeal in the backdrop of the contentions advanced by the learned authorized representatives of both parties.

8. We are unable to persuade ourselves to concur with the observations of the Ld. Addl/JCIT(A), Kochi that as the A.O. had passed the order under Section 154, dated 21.08.2022, therefore, the intimation passed by the A.O./CPC, Bengaluru under Section 143(1) of the Act, dated

04.07.2022 lost its existence and the appeal filed by the assessee against the same was rendered as infructuous. We are unable to comprehend the very basis for the aforesaid view taken by the Ld. Addl/JCIT, Kochi. We are of the firm conviction that the intimation under Section 143(1) of the Act, dated 04.07.2022, passed by the A.O/ CPC, Bengaluru, has its independent existence, which is appealable before the CIT(A) under Section 246A(1)(a) of the Act. We are unable to concur with the Ld. Addl/JCIT, Kochi CIT(A) that subsequent to the order passed by the A.O. under Section 154 of the Act, dated 21.08.2022, declining the assessee's application for rectification would render the appeal filed by the assessee against the impugned intimation issued under Section 143(1) of the Act, dated 04.07.2022 before him as infructuous. Although the assessee could have separately appealed against the order passed by the A.O. under Section 154, dated 21.08.2022 before the CIT(A), but by not so doing, he cannot be held to be remediless and divested of his statutory right to appeal against the impugned additions made in the intimation issued u/s 143(1) of the Act, dated 04.07.2022 before the Addl/JCIT(A), Kochi. We say so, for the reason that an order of rectification only modifies or amends the original order to the extent of the mistake corrected, and thus, the original order continues to exist in its rectified form. Our aforesaid view

is supported from the judgment of the **Hon'ble High Court of Karnataka** in the case of **Kothari Industrial Corporation Ltd. Vs. Agricultural Income-tax Officer (1998) 230 ITR 306 (Kar)**. The Hon'ble High Court had, inter alia, observed that when an order of rectification is made, the effect is that the original order has to be read subject to the correctness/modifications by the rectification order. The correction is incorporated in the original order, as for example, where merely a figure is altered or typographical correction is made. However, having regard to the nature of the original order, the rectification becomes an addendum to the original order, both being read together as in the case of a will and codicil. Accordingly, it was observed that when a mistake is rectified the original order is not set aside, the original order remains on record and the mistakes or omissions are corrected therein.

9. Apropos the merits of the case, we though, prima facie, find substance in the Ld. AR's claim that the adjustment carried out by the A.O./CPC, Bengaluru, under Section 143(1) of the Act, in the backdrop of the fact that the aforementioned incomes aggregating to Rs. 3,00,351/- (supra) had separately been offered by the assessee for tax/ considered for rate purposes in his return of income, thus, had subjected him to double taxation, but, in all fairness, are of the view

that considering the unsigned extracts of the “return of income” filed by the assessee before us, the matter requires to be restored to the file of the A.O. for necessary verification. In case, the aforesaid income of Rs. 3,00,351/- (supra) is disclosed by the assessee in his return of income, then the impugned addition to the said effect made by the A.O/CPC, Bengaluru, vide his intimation under Section 143(1) of the Act, dated 04.07.2022 shall be vacated.

10. Resultantly, the appeal filed by the assessee is allowed for statistical purposes in terms of our aforesaid observations.

Order pronounced in the Open Court on 29th August, 2025.

<p>Sd/- (एस. बालकृष्णन) (S. BALAKRISHNAN) लेखा सदस्य/ACCOUNTANT MEMBER</p>	<p>Sd/- (रवीश सूद) (RAVISH SOOD) न्यायिक सदस्य/JUDICIAL MEMBER</p>
--	--

Hyderabad, dated 29.08.2025.

TYNM/sps

आदेशकी प्रतिलिपि अग्रेषित/ Copy of the order forwarded to:-

1.	निर्धारिती/The Assessee	:	Shri Bala Venkata Katyayani Dasu D.No.#22B-12-6, Gadevari Street, Power Peta S.O Eluru, West Godavari – 534002, A.P.
2.	राजस्व/ The Revenue	:	The Income Tax Officer, Circle – 1, Rajamahendravaram.
3.	The Principal Commissioner of Income Tax, Visakhapatnam.		

ITA No.297/Viz/2025
Bala Venkata Katyayani Dasu

4.	विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, / DR, ITAT, Visakhapatnam.
5.	गार्डफ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam