

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ‘ DB-A ‘ Bench, Hyderabad

Before Shri Vijay Pal Rao, Vice-President
A N D
Shri Manjunatha, G. Accountant Member

आ.अपी.सं / **ITA No.551/Hyd/2025**
(निर्धारण वर्ष / Assessment Year: 2017-18)

Shri Linga Naveenkumar Hyderabad PAN:AAFPN0021P (Appellant)	Vs.	Income Tax Officer Ward 4(1) Hyderabad (Respondent)
निर्धारिती द्वारा / Assessee by:		Advocate K Prabhabati
राजस्व द्वारा / Revenue by: :		Shri TV Vamshidhar, Sr.AR
सुनवाई की तारीख / Date of hearing:		24/09/2025
घोषणा की तारीख / Pronouncement:		26/09/2025

आदेश/ORDER

Per Vijay Pal Rao, Vice President

This appeal by the assessee is directed against the order dated 17/01/2025 of the learned CIT (A)-NFAC Delhi, for the A.Y.2017-18.

2. The assessee has raised the following grounds of appeal:

“1. On the facts and in the circumstances of the case, the order passed by the learned Commissioner (Appeals)/NFAC is erroneous and unsustainable on facts and in law.

2. *The learned CIT (A) erred in disallowing the development charges and other construction costs of Rs. 25,83,000/- without any cogent reason when the same has been verified by the Assessing Officer and found to be in order in the remand report. The learned CIT (A) erred in computing the capital gains at Rs.37,50,000/- i.e., the sale value of the property as against the long term capital loss of Rs. 5,37,729/- claimed by the Appellant without cogent reasons as to why he is not accepting the favourable report of the Assessing Officer.*

3. *The learned CIT (A) erred in dismissing the ground with respect to salary income of Rs.74,78,627/- without appreciating the fact that the Appellant has already offered the same to tax in the return of income filed in response to the notice issued u/s. 148 of the Income Tax Act, 1961. The learned CIT(A) failed to appreciate that dismissing the ground would result in taxing the salary twice.*

4. *The learned CIT(A) erred in dismissing the ground with respect to commission income of Rs. 3,26,610/- without appreciating the fact that the same was already offered as income under the head 'income from other sources' by the Appellant in the return filed in response to notice under section 148 of the Act. The Ld. CIT(A) ought to have appreciated that dismissing the ground would result in taxing the commission income twice.*

5. *The learned CIT(A) erred in taking a contrary view from that of the Assessing Officer in the remand report without cogent and compelling reasons.*

6. *For these and other grounds that may be urged, it is prayed that the appeal may be allowed."*

3. Ground Nos. 1 & 2 are regarding the disallowance made by the Assessing Officer on account of development charges and construction cost while computing the Long Term Capital Gains/loss arising from the sale of the property. The learned Counsel for the assessee has submitted that the Assessing Officer has made the addition of the entire sale consideration of the immovable property sold by the assessee without allowing the cost of development and construction. She has pointed out that before

the learned CIT (A), the assessee filed the relevant record in the shape of the development agreement with the builder as well as the construction agreement under which the assessee had paid the cost of development and construction of the house. The learned CIT (A) called for a remand report from the Assessing Officer and the Assessing Officer has accepted the documents filed by the assessee in his remand report. However, the learned CIT (A) has confirmed the addition on account of construction cost ignoring the remand report of the Assessing Officer. She has referred to the petition filed under Rule 29 of the ITAT Rules, 1963 for admission of the additional evidence and submitted that the learned CIT (A) has confirmed the disallowance made by the Assessing Officer on the ground that the assessee has not produced the completion certificate and other documentary evidence for purchase of the material used in construction of the house. The learned Counsel for the assessee has submitted that the assessee has now produced the completion certificate in the shape of additional evidence along with the receipts, loan statement, and receipt issued by the builder against the construction cost and development charges. Thus, the learned Counsel for the assessee has submitted that the additional evidence filed by the assessee may be admitted for deciding this issue on merit. She has referred to the order of the learned CIT (A) and submitted that despite the Assessing Officer has accepted the claim of the assessee in the remand report, the learned CIT (A) has confirmed the addition made by the Assessing Officer in the re-assessment proceedings. Thus, the learned Counsel for the assessee has submitted that in view of the remand report as well

as the additional evidence filed by the assessee, the addition sustained by the learned CIT (A) be deleted.

4. On the other hand, the learned DR has submitted that the assessee has filed only an agreement for construction of the house without any supporting evidence to show that the construction was completed and incurrence of the development charges and other construction cost as claimed by the assessee. The assessee has also not corroborated the claim by filing the documentary evidence such as vouchers for payment, purchase of material etc. He has relied upon the orders of the authorities below. The learned DR has pointed out that the assessee did not file any return of income u/s 139 as well as in response to the notice issued u/s 148 of the I.T. Act. Therefore, nothing was filed before the Assessing Officer in support of these claims. The return was filed only at the fag end of the limitation for passing the assessment order.

5. We have considered the rival contentions as well as the relevant material available on record. Undisputedly, the assessee has not filed any return of income u/s 139 of the Act. On the basis of the information that the assessee has entered into significant financial transaction to the tune of Rs.1,36,68,715/- during the year under consideration, a notice u/s 148 of the Act was issued on 29/03/2021. In response to the said notice, the assessee did not file any return of income and consequently, the Assessing Officer proceeded to frame the assessment on best judgment basis. The Assessing Officer has assessed the total

income of the assessee at Rs.1,36,58,715/-comprising of an addition made on account of purchase of Motor Vehicle of Rs.21,13,478/-, sale of immovable property of Rs.37,50,000/-, salary received of Rs.74,78,627/- and commission/brokerage income of Rs.3,26,610/-. The assessee challenged the assessment order before the learned CIT (A) and also produced the evidences to show that the assessee was having sufficient funds for purchase of Motor Vehicle and also incurred expenditure in respect of purchase of property, development of the same and construction of the said property vide 3 separate documents being sale deed, development agreement as well as construction agreement. The learned CIT (A) forwarded the evidence filed by the assessee to the Assessing Officer for submission of remand report. The Assessing Officer has filed the remand report which is reproduced by the learned CIT (A) in para 4.3 of the impugned order as under:

4.3 Remand Report of the AO:

It is submitted that on verification of assessment order for the AY 2017-18, it is observed that an order under Section 147 rws 144 rws 144B of the IT Act was passed on 30-03-2022. It is noticed that the assessee has financial transactions of Rs. 1,36,66,715 as under:

1. TCS-206L – Purchase of Motor vehicle Rs.21,13,478/-
2. Sale of Immovable Property of Rs.37,50,000/-
3. TDS-192 Salary received of Rs.74,78,627/-
4. Commission income of Rs.3,26,610/-

As the assessee did not comply with the notices issued, the AO passed an order by assessing total income at Rs. 1,36,68,715/-.

Now, the assessee filed an appeal before Hon'ble CIT(A) taking a stand that the appellants could not submit in time the return of income for the assessment year 2017-18 due to heavy workload in managing the

escalations as part of the job at Infosys and also associated travels to other countries. The assessee further contended that the appellant duly discharged the tax liability along with interest for the assessment year under consideration.

As a remand report has to be submitted to the CIT(A), a letter was addressed to the assessee calling for information in support of documents / information filed before the Ld. CIT(A). In response, the assessee furnished information which are discussed as under:

1. **Purchase of Motor Vehicle – Rs.21,13,478/-**

The assessee submitted that he has purchased the motor vehicle during the year sourced out of a loan of Rs. 15 lakhs taken from Kotak Mahindra Prime Limited, and the balance payment of Rs.6,13,478/- was made out of accumulated savings arising out of salary income. The assessee furnished the bank sanction letter and repayment schedule. The same was verified and found to be in order.

2. **Sale of Immovable Property – Rs.37,50,000/-**

The assessee furnished the following information with regard to the sale of immovable property:

1. Proof for the sale of immovable property of Rs.37,50,000/-
2. Copy of the document for the purchase of land of Rs.1,17,000/-
3. Copy of the agreement for construction of house at Rs.27,00,000/-

On perusal of the information furnished, it is observed that the assessee has submitted the calculation of long-term capital loss from the sale of immovable property of Rs.5,37,729/-. The copy of documents furnished has been verified with reference to the computation of capital gains/loss and found to be in order.

3. **Salary Income of Rs.74,78,627/-**

The assessee submitted that during the year under consideration, he worked in Infosys Limited and the gross salary earned during the period was Rs.74,78,627/-. After claiming exemptions/allowances, the net salary income taxable of Rs.69,27,305/- was declared in the income return.

4. **Commission Income of Rs.3,26,610/-**

The assessee submitted that he received commission income from M/s. Lanco Hills Technology Park Limited, and the same was declared in the return of income under the head "Income from Other Sources."

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(K. Prabhakati)

The copy of the return of income filed by the assessee has been verified with reference to the information furnished by the assessee and found to be in order. In view of the above, the information furnished by the assessee may be considered.

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6. As regard the purchase of Motor Vehicle, the learned CIT (A) has already deleted the said addition made by the Assessing Officer. The addition made by the Assessing Officer on account of sale of immovable property, the learned CIT (A) has

confirmed the addition to the tune of Rs.25,83,000/- out of the total addition of Rs.37,50,000/- in para 4.5 as under:

4.5 Addition of Rs. 37,50,000/- on Account of Sale of Immovable Property: I have carefully examined the submission made by the appellant regarding the sale of immovable property for Rs.37,50,000/-. While the appellant has provided certain documents, including the sale deed, purchase document, and an agreement for construction of the house, I find that the appellant has failed to substantiate the incurrence of development charges and other construction costs claimed to be Rs.25,83,000/- with any corroboratory documentary evidence such as a completion certificate, vouchers of payment for purchase of material, details of person to whom the contract for construction was given etc.

The agreement for construction alone cannot be accepted as a sufficient basis for the deletion of this addition, as it does not provide conclusive proof of the actual expenditure incurred. In view of the absence of substantiating evidence, the appellant's claim for the development charges and construction costs is found not tenable. The AO is directed to recompute the capital gains arising from the sale of the immovable property by disallowing the development charges and other construction costs of Rs.25,83,000/- claimed by the appellant. Thus, this ground of appeal stands dismissed.

7. Thus, the learned CIT (A) has pointed out that the assessee has not filed any corroborative evidence such as completion certificate, voucher of payment for purchase of material and details of the persons. At the same time, the Assessing Officer in his remand report has stated that the copies of the documents furnished has been verified with reference to the computation of capital gain/loss and found to be in order. Ignoring this report of the Assessing Officer who has verified the documents, the learned CIT (A) has confirmed the addition in the absence of corroborative evidence such as completion certificate,

vouchers of the payments, etc., Now the assessee has filed the additional evidence in the shape of completion certificate, receipt of the builder and loan certificate. Accordingly, in the facts and circumstances of the case, we set aside this issue to the record of the Assessing Officer to verify and examine the additional evidences filed by the assessee and then allow the claim of the assessee, if the documents filed by the assessee are found to be in order.

8. Ground No.3 is regarding the addition made by the Assessing Officer on account of salary income of Rs.74,78,627/-. The learned Counsel for the assessee has submitted that in the remand report, the Assessing Officer has accepted the fact that the assessee has declared the net salary income of Rs.69,27,305/- in the return of income. However, the learned CIT (A) has confirmed the addition made by the Assessing Officer without allowing the deduction u/s 10 as well as on account of professional tax.

9. On the other hand, the learned DR has submitted that though the assessee has declared the salary income in the return of income, however, the Assessing Officer has not made any addition to the returned income of the assessee but the total income of the assessee is assessed by considering the salary income as well as other income of the assessee. Therefore, there is no question of double taxation of the same income.

10. We have considered the rival submission as well as relevant material on record. As it is evident from the remand report of the Assessing Officer that the Assessing Officer has verified the return of income filed by the assessee and also found that the net salary income taxable at Rs.69,27,305/- was declared in the return of income. Therefore, the deduction of Rs.5,48,922/- u/s 10 of the Act as well as on account of professional tax of Rs.2400/- allowable under the provisions of the Act cannot be denied to the assessee. Since the assessee has already declared the salary income in the return of income, therefore, the addition is restricted only to the net salary income of Rs.69,27,305/- and the Assessing Officer is directed to allow the credit of the tax paid by the assessee on self-assessment/returned income.

11. Ground No.4 is regarding the addition made on account of commission income.

12. We have heard the learned AR and the learned DR and considered the relevant material available on record,. In the remand report, the Assessing Officer has stated that the assessee received commission income from M/s. Lanco Hills Technology Ltd and the same was declared in the return of income under the head "income from other sources". The said income of Rs.3,26,610/- was also assessed by the Assessing Officer while framing the assessment u/s 144 of the Act, therefore, there is no difference in the income declared by the assessee in the return of income and assessed by the Assessing Officer while framing the assessment. The only grievance which may be raised by the

assessee is regarding the credit of tax paid by the assessee on such income declared in the returned income. Accordingly, the Assessing Officer is directed to grant the credit of tax paid by the assessee on the commission income as declared in the return of income.

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

Order pronounced in the Open Court on 26th September, 2025.

Sd/-

Sd/-

(MANJUNATHA, G.) ACCOUNTANT MEMBER	(VIJAY PAL RAO) VICE-PRESIDENT
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Hyderabad, dated 26th September, 2025

Vinodan/sps

Copy to:

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1	Shri Linga Naveenkumar, House No.21, Laxmi Vihar Phase-2 Nalgandla, Telangana 500019
2	Income Tax Officer Ward 4(1) Hyderabad
3	Pr. CIT - Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order