

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

Before Shri Ravish Sood, Judicial Member
and
Shri Balakrishnan S., Accountant Member

आ.अपी.सं /ITA No.397/Viz/2025
(निर्धारण वर्ष/Assessment Year: 2018-19)

Amlu Mohammed Taj, Kurnool. PAN: ACHPT2412N	Vs.	DCIT, Central Circle-2, Guntur.
(Appellant)		(Respondent)
निर्धारिती द्वारा/Assessee by:	Shri S. Rama Rao, Advocate	
राजस्व द्वारा/Revenue by:	Dr. Aparna Villuri, Sr. AR	
सुनवाई की तारीख/Date of Hearing:	06/11/2025	
घोषणा की तारीख/Date of Pronouncement:	19/11/2025	

आदेश / ORDER

PER. RAVISH SOOD, JM :

The present appeal filed by the assessee is directed against the order passed by the Commissioner of Income Tax (Appeals), Visakhapatnam-3, dated 04/04/2025, which in turn arises from the order passed by the Assessing Officer under section 154 of the Income-tax Act, 1961 (for short, "Act"), dated 19/05/2023 for the Assessment Year 2018-19. The assessee has assailed the impugned order on the following grounds of appeal before us:

“1) The order of the learned CIT (A) is erroneous both on facts and in law.

2) The learned CIT (A) erred in confirming the action of the Assessing Officer in passing an order u/s 154 of the I.T. Act and in taxing the income of Rs.26,82,200/-at the rate of 60%.

3) The learned CIT (A) ought to have considered the fact that the amount of Rs.26,82,200/ represents the income assessable under the head cross word puzzles and not the income assessable u/s 69A of the I.T. Act.

4) The learned CIT (A) ought to have considered the fact that the income is not assessable u/s 115BBE of the I.T. Act and is taxable only at the rate of 30% which was correctly done by the Assessing Officer while completing the assessment.

5) Any other ground/grounds that may be urged at the time of hearing.”

Also, the assessee has raised an additional ground of appeal, which reads under:

“The Assessing Officer passing order under section 154 should have been rectified the order by changing the head of income to “cross word puzzles” in respect of the income of Rs.26,82,200/-.”

2. Succinctly stated, the assessee had filed his return of income for AY 2018-19, dated 01/06/2019, declaring an income of Rs. 26,80,500/- .Subsequently, the case of the assessee was selected for scrutiny assessment under section 143(2) of the Act.

3. During the course of the assessment proceedings, the AO observed that cash of Rs. 26,82,200/- was seized by the Police from the assessee on 27/07/2017 at Adoni for want of supporting documents

explaining the source of the subject amount. Out of the aforesaid amount of Rs. 26,82,200/-, the Police had deposited an amount of Rs. 12,02,200/- in the fixed deposit in the name of Special JSCM Court, Adoni by treating the same as the amount pertaining to *matka* business of the assessee. Thereafter, the Income Tax Department had drawn a warrant of authorization on the Inspector of Police, II Town Police Station, Adoni, on 01/07/2019 and seized the balance cash of Rs. 14,80,000/-. Accordingly, a Demand Draft No.270605, dated 01/07/2019, for an amount of Rs. 14,80,000/- was drawn in favour of the Principal Commissioner of Income Tax (Central), Hyderabad.

3. Ostensibly, the assessee, in the absence of any explanation regarding the source of the aforesaid cash of Rs. 28,82,200/- (supra), had disclosed the same as his income in his return of income filed for the AY 2018-19.

4. Thereafter, the AO issued notice under section 153A of the Act, dated 19/07/2021, wherein the assessee was called upon to file his return of income. However, the assessee failed to file his return of income in compliance to the aforesaid notice. Thereafter, the AO issued notice under section 142(1) of the Act, dated 18/08/2021, calling upon

the assessee to furnish certain information which was filed by the assessee.

5. As is discernible from the record, the assessee appellant filed before the AO his return of income along with his Profit & Loss Account for the subject year, wherein the income of Rs. 26,82,200/- (supra) was disclosed by him as having been derived from winning of crossword puzzle.

6. The AO, based on the claim of the assessee that the cash seizure of Rs. 26,82,200/- (supra) was earned from crossword puzzles, called upon him to furnish supporting details of such activity, viz. gross turnover, expenditure incurred, net profit, etc. In reply, it was the claim of the assessee that he had not incurred any expenses with respect to the crossword puzzles activity and submitted that the same may be considered as his business income. However, the AO observing that the assessee had not maintained any details with respect to the source from where the subject money was stated to have been received, viz. client details etc., therefore, held a conviction that his claim that the said amount was earned from the activity of crossword puzzles, was only an eyewash to avoid the special tax rates contemplated under section 115BBE of the Act. Accordingly, the AO, in the absence of any evidence

which would substantiate the assessee's claim that the seized cash of Rs. 26,82,200/- was sourced from his aforesaid activity of crossword puzzles, held the same as his unexplained money under section 69A of the Act that, as observed by him in the assessment order was to be subjected to tax at the rates provided under section 115BBE of the Act. Accordingly, the AO excluded the amount of Rs. 26,82,200/- from the Profit & Loss Account of the assessee for assessing the same separately as his unexplained money under section 69A of the Act.

7. Thereafter, the AO vide his order passed under section 153A r.w.s 144 of the Act, dated 28/09/2021 determined the income of the assessee at Rs. 32,08,999/-, viz., (i) business income estimated @ 8% of turnover of Rs.12,25,120/-: Rs. 98,009/-; (ii) commission income: Rs.3,25,670/-; (iii) bank interest: Rs.13,120/-; (iv) income from paying of truck/lorry: Rs.90,000/-; and (v) unexplained cash seized: Rs.26,82,200/- (supra) as the assessee's unexplained money under section 69A of the Act. However, as the AO, while framing the assessment vide his order passed under section 153A r.w.s 144 of the Act, dated 28/09/2021, had inadvertently computed the tax liability on the total assessed income at Rs. 32,08,999/- as per the normal tax rates, therefore, he issued a notice under section 154 of the Act to the assessee seeking to rectify the aforesaid mistake.

8. Thereafter, the AO vide his order passed under section 154 of the Act, dated 19/05/2023 recomputed the tax liability of the assessee, viz., (i) tax payable on normal income of Rs.5,25,800/- (at normal slab rate): Rs.17,860/-; and (ii) tax payable on addition made under section 69A of the Act w.r.t the cash seized of Rs.26,82,200/- @ 60%: Rs.16,09,320/-. Thereafter, the AO, after levying surcharge /educational cess, determined the total liability of the assessee at Rs. 20,90,395/-.

9. Aggrieved, the assessee carried the matter in appeal before the CIT(A) but without success. For the sake of clarity, the observations of the CIT(A) are culled out as under:

“6 Decision:

6.1 In the instant case, the appellant is an individual working as a commission agent, deriving income from trading of cotton and plying good transport vehicles and filed his return of income on 01.06.2019 admitting total income of Rs. 26,80,500/- for the A.Y. 2018-19. The police had seized cash of Rs 26,82,200/- from the appellant on 27.07.2017 at adoni anu out of the total amount of Rs. 2682200/- an amount of Rs. 1202200/- was deposited in FD in the name of Special JSCM Court, Adoni by treating the said amount pertaining to Matka Business Accordingly, the balance amount of Rs. 14,80,000/- was seized by IT Authorities on 01.07 2019 u/s 132A of the Act. Accordingly the assessment proceedings u/s 153A has been initiated and a notice u/s 153A has been issued. In response to the notice issued the appellant had not filed any return of income. The AO completed the assessment proceedings by making following additions thereby assessing the total income at Rs. 32,08,999/-:

Returned Income	Rs. 26,80,500/-
Income estimated from Business	Rs. 98,009/-

Income from other sources	Rs. 3,25,670/-
Bank Interest	Rs. 13,120/-
Income from plying of lorry	Rs. 90,000/-
Unexplained cash seized 69A	Rs. 26,82,200/-
Assessed Income	Rs. 32,08,999/-

6.2 Subsequently the AO initiated the rectification proceedings u/s 154 of the IT Act by issuing notice u/s 154 of the Act. While passing the assessment order, the AO had inadvertently levied tax @ 30% instead of correct rate 60% and surcharge of 25%. The interest u/s 234A and 234B were also, short levied. The AO had completed the order u/s 154 by raising the total tax payable of Rs 8,79,589/-.

6.3 Being aggrieved by the order u/s 154 of the AO the appellant preferred present appeal. The Assessment order u/s 143(3), rectification order u/s 154, grounds of appeal and submissions made by the appellant have been carefully examined. The appellant contended the addition made by raising 6 grounds of appeal which are adjudicated as under.

6.4 I have considered the submissions made by the AO and the findings of the AO in original assessment order and the rectification order u/s 154 of the Act. Initially the AO had completed assessment by determining assessed income of Rs. 32,08,999/-

6.5 Though the AO made addition of Rs. 26,82,200/- on account of unexplained cash seized u/s 69A of the IT Act and to be taxed under the provisions of section 115BBE, but the AO while doing the computation had inadvertently adopted the normal rates and completed the assessment proceedings.

6.6 Thereafter the AO initiated the rectification proceedings u/s 154 of the Act and rectified the mistake apparent from records by issuing notice u/s 154 of the Act. The AO passed the rectification order dated 19.05.2023 by implementing the provisions of section 115BBE and levied the total demand payable of Rs. 8,79,589/- on account of unexplained cash u/s 69A of IT Act 1961.

6.7 It is seen that the appellant has filed the appeal against the order u/s. 154 of Income Tax Act 1961 rather than against the order u/s 153A dated 28.09.2021, where the quantum of addition was made. The quantum order was accepted by the appellant and no appeal was filed against the quantum order. It can be seen from the above, that the

assessed income u/s 153A dated 28.09.2021 and the income assessed as per order u/s. 154 dated 19.05.2023 are the same and only the tax rates were changed. Therefore, the order u/s. 154 dated 19.05.2023 has nothing to do with quantum addition. Without deciding the quantum addition, it is legally not correct to decide the consequent order passed u/s 154 of the Act.

6.8 It has to be noted here that it is clearly mentioned in the assessment order dated 28.09.2021 that the said addition was made u/s. 69A of the Act as unexplained cash and to be taxed under the provisions of section 115BBE. Thereby the action of the AO in correcting the tax demand by initiating the provisions of 154 of the Act is legally correct and the same is upheld. Hence the ground No. 1 to 6 are here by dismissed.

6.9 In result, the appeal is dismissed.”

10. The assessee, being aggrieved with the order of the CIT(A), has carried the matter in appeal before us.

11. We have heard the Learned Authorized Representatives of both parties, perused the orders of the lower authorities, and the material available on record.

12. Sri S. Rama Rao, Advocate, the Learned Authorized Representative (for short, “Ld. AR”) for the assessee, submitted that both the authorities below had grossly erred in law and facts of the case by failing to appreciate that as the cash seized of Rs. 26,82,200/- represented the income earned by the assessee from crossword puzzles, therefore, it based on a clear explainable source of the said amount it could not have been brought within the meaning of unexplained

money under section 69A of the Act. Accordingly, it was submitted by him that both the authorities below had erred in subjecting the cash seized of Rs. 26,82,200/- to tax at the special rate of 60% contemplated under section 115BBE of the Act.

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

14. We have considered the contentions advanced by the Learned Authorized Representatives of both parties in the backdrop of the orders of the authorities below.

15. Admittedly, it is a matter of fact borne from the record that the AO, while framing the assessment vide his order under section 153A r.w.s 144 of the Act, dated 28/09/2021, had rejected the assessee's claim that the cash seizure of Rs. 26,82,200/- was his income that was sourced from his earnings from crossword puzzles. In fact, we find on a perusal of the assessment order that the AO had categorically observed that, for want of evidence, the claim of the assessee that the cash seized of Rs. 26,82,200/- was his income from crossword puzzles was an afterthought to avoid the special tax rates under section 115BBE of the Act. Accordingly, the AO, based on his deliberations, had excluded the

amount of Rs. 26,82,200/- from the Profit & Loss account of the assessee and assessed the said amount under section 69A of the Act.

15. Although, the AO had vide his order passed under section 153A r.w.s 144 of the Act, dated 28/09/2021, based on his clear observations as recorded at the stage of framing the assessment, had held the cash seized of Rs.26,82,200/- as having been sourced out of the assessee's unexplained money under Section 69A of the Act, but had thereafter inadvertently subjected the same to the normal tax rates, instead of the special tax rate contemplated under section 115BBE of the Act.

16. We have given thoughtful consideration and are of the view that the AO had rightly rectified his assessment order vide his order under section 154 of the Act, dated 19/05/2023, and subjected the cash seized of Rs.26,82,200/- that was held by him in the assessment order as the assessee's unexplained money under section 69A of the Act, to tax as per special rates contemplated under section 115BBE of the Act.

17. Apropos, the claim of the Ld. AR that there was no justification for the AO to have held the cash seized of Rs. 26,82,200/- that was sourced out of his income from crossword puzzles as his unexplained money under section 69A of the Act, we are of the view that in case the assessee was aggrieved with the said view so taken by the AO, then the

remedy available with him was to assail the same by challenging the quantum assessment framed by the AO before the CIT(A).

18. Be that as it may, we are unable to persuade ourselves to concur with the Ld. AR that the order passed by the AO under section 154 of the Act, dated 19/05/2023, wherein the cash seized of Rs. 26,82,200/- had been subjected to tax under section 115BBE of the Act @ 60% suffers from an infirmity and cannot be sustained. Accordingly, finding no infirmity in the view taken by the CIT(A), who, in our view, had rightly sustained the order passed by the AO, dated 19/05/2023, we uphold the same.

19. Resultantly, the appeal filed by the assessee, being devoid and bereft of any substance, is dismissed.

Order pronounced in the open court on 19th November, 2025.

Sd/- (BALAKRISHNAN S.) ACCOUNTANT MEMBER	Sd/- (RAVISH SOOD) JUDICIAL MEMBER
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Hyderabad,
Dated: 19th November, 2025

OKK / SPS

Copy to:

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1	Amli Mohammed Taj, 18-646, Matkarwadi Street, Adoni, Kurnool, Andhra Pradesh-518301.
2	DCIT, Central Circle-2, Gutntur, Andhra Pradesh.
3	The Pr. Commissioner of Income Tax,
4	The DR, ITAT, Visakhapatnam Bench
5	Guard File

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