

आयकर अपीलीय न्यायाधिकरण में, हैदराबाद 'ए' बेंच, हैदराबाद
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ' A ' Bench, Hyderabad

श्री विजय पाल राव, माननीय उपाध्यक्ष एवं श्री मंजूनाथ जी, माननीय लेखा सदस्य
SHRI VIJAY PAL RAO, HON'BLE VICE PRESIDENT
AND
SHRI MANJUNATHA G, HON'BLE ACCOUNTANT MEMBER

आयकरअपीलसं./I.T.A.No.1176/Hyd/2024
(निर्धारण वर्ष/ Assessment Year:2017-18)

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| Thati Satish Kumar, R/o Hyderabad. PAN : BBIPS4203B. | Vs. | The Income Tax Officer, Ward – 1(12), Hyderabad. |
| (अपीलार्थी/ Appellant) | | (प्रत्यर्थी/ Respondent) |

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| करदाता का प्रतिनिधित्व/ Assessee Represented by | : | Shri P. Murali Mohan Rao, C.A. |
| राजस्व का प्रतिनिधित्व/ Department Represented by | : | Ms. U. Mini Chandran, CIT-DR |
| सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing | : | 24.11.2025 |
| घोषणा की तारीख/ Date of Pronouncement | : | 26.11.2025 |

ORDER

PER MANJUNATHA G., A.M :

This appeal filed by the assessee is directed against the order of learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre [in short "NFAC"], Delhi, dated 17.09.2024, relating to the assessment year 2017-18.

2. The brief facts of the case are that, the assessee is a non-filer and did not file a return of income for the assessment year 2017-18. Information was received from the Departmental System that, during the Financial Year 2016-17 relevant to the assessment year 2017-18, the assessee has entered into various financial transactions, including purchase of immovable property, payment in respect of Life Insurance Policy, cash withdrawals from current account, and credit card payments. Although the assessee has entered into various financial transactions, but has not filed the return of income under Section 139 of the Income Tax Act, 1961 (for short "the Act"). Therefore, the A.O. reopened the assessment under Section 147 of the Act, on the ground that, income chargeable to tax has escaped from assessment and accordingly, notice under Section 148 of the Act, was issued and served upon the assessee. In response to notice under Section 148 of the Act, the assessee has not filed return of income. Thereafter, notice under Section 142(1) of the Act, dated 13.11.2021 along with questionnaire was issued, but there was no response from the assessee. Therefore, the A.O. passed best judgment assessment order under Section 147 r.w.s. 144 r.w.s. 144B of the Income Tax

Act, 1961 on 28.03.2022 and determined the total income at Rs. 37,42,55,492/-.

3. Aggrieved by the assessment order, the assessee preferred appeal before the Ld. CIT(A) and challenged the additions made by the A.O. In the meantime, the A.O. passed the order under Section 154 r.w.s. 147 of the Income Tax Act, 1961 on 11.09.2023 and computed tax liability for the additions made under Sections 68 and 69 of the Act @ 60% under Section 115BBE of the Income Tax Act, 1961. The assessee challenged the order passed by the A.O. under Section 154 r.w.s 147 of the Act, before the Ld. CIT(A) and filed appeal on 11.10.2023. During the appellate proceedings, the assessee challenged the order passed by the A.O. under Section 154 r.w.s. 147 of the Act for applying the provisions of Section 115BBE of the Act, on technical grounds as well as on merits, and also stated that, the assessee has challenged the assessment order passed by the A.O. making various additions under Sections 68 and 69 of the Income-tax Act, 1961.

4. The Ld. CIT(A), after considering the submissions of the assessee and also taking note of relevant additions made under Sections 68 and 69 of the Act, observed that, the additions made under Sections 68 and 69 of the Act, attract higher rate of tax as per the provisions of Section 115BBE of the Act, and therefore, there is no infirmity in the rectification order passed by the A.O. under Section 154 r.w.s. 147 of the Act.

5. Aggrieved by the order of the Ld. CIT(A), the assessee is now in appeal before the Tribunal.

6. The Learned Counsel for the assessee Shri P. Murali Mohan Rao, submitted that, the Ld. CIT(A) erred in dismissing the appeal filed by the assessee against the order passed by the A.O. under Section 154 r.w.s. 147 of the Act, even though the assessee stated that, the appeal filed against the assessment order passed by the A.O. under Section 147 r.w.s. 144 r.w.s. 144B of the Income Tax Act, 1961, dated 28.03.2022, is pending for adjudication. Since the present appeal is consequential to the appeal filed by the assessee against the assessment order, he requested that, the matter may be remitted to the file of the A.O. to reconsider the issue.

7. The Ld. CIT-DR for the Revenue, Ms. U Mini Chandran, on the other hand, submitted that, both the proceedings are different. The assessee has challenged the assessment order passed by the A.O. under Section 147 r.w.s. 144 r.w.s. 144B of the Income Tax Act, 1961 on different grounds and the rectification order passed by the A.O. under Section 154 r.w.s. 147 of the Act on different grounds. Therefore, the Ld. CIT(A) has rightly decided the issue in accordance with law. Further, once the appeal filed by the assessee against the assessment order is pending before the Ld. CIT(A), then, in all fairness, this appeal may be set aside to the file of the Ld. CIT(A) to decide the issue along with the main appeal filed by the assessee on the assessment order passed by the A.O. under Section 147 r.w.s. 144 r.w.s. 144B of the Income Tax Act, 1961. Therefore, she submitted that, this issue may be set aside to the file of the Ld. CIT(A).

8. We have heard both parties, perused the material available on record and had gone through the orders of the authorities below. There is no dispute with regard to the fact that, the assessment order passed by the A.O. under Section 147 r.w.s. 144 r.w.s. 144B of the Income Tax Act, 1961 is ex parte without any cooperation

from the assessee to explain his case. The A.O. made various additions under Sections 68 and 69 of the Income Tax Act, 1961 and computed tax liability under normal provisions of the Act @ 30% on total income determined in the assessment order. The said order has been filed challenged before the Ld. CIT(A) by filing an appeal and the same is pending for adjudication. In the meantime, the A.O. passed the order under Section 154 r.w.s. 147 of the Act, dated 11.09.2023 and computed tax liability @ 60% as per the provisions of Section 115BBE of the Income-tax Act, 1961. The assessee had also filed appeal against the order passed u/s 154 r.w.s. 147 of the Act. Admittedly, both the appeals filed by the assessee before the Ld. CIT(A) are inter-connected i.e. one on the additions made by the A.O. under Sections 68 and 69 of the Act, and its sustainability, and the other one is application of higher rate of tax in terms of Section 115BBE of the Act. If the assessee succeeds in his appeal filed against the assessment order passed under Section 147 r.w.s. 144 r.w.s. 144B of the Income Tax Act, 1961, then there is no question of application of provisions of Section 115BBE of the Income Tax Act. Since the issue involved in the present appeal is inter-linked to the other appeal filed by the

assessee before the Ld. CIT(A) on merits, in our considered view, in all fairness, the Ld. CIT(A) ought to have decided both appeals together. Since the Ld. CIT(A) decided the appeal without considering the main appeal of the assessee, in our view, this appeal need to be set aside to the file of Ld. CIT(A). Thus, we set aside the order of the Ld. CIT(A) and restore the appeal to the file of the Ld. CIT(A) with a direction to reconsider this appeal along with the appeal filed by the assessee against the assessment order passed by the A.O. under Section 147 r.w.s. 144 r.w.s. 144B of the Income Tax Act, 1961 dated 28.03.2022 and decide the issue in accordance with law.

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

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

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| Sd/- श्री विजय पाल राव (VIJAY PAL RAO) उपाध्यक्ष /VICE PRESIDENT | Sd/- (मंजूनाथ जी) (MANJUNATHA G.) लेखा सदस्य/ACCOUNTANT MEMBER |
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Hyderabad, dated 26.11.2025.
TYNM/sps

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

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| 1. | निर्धारिती/The Assessee | : | Thati Satish Kumar, C/o. P. Murali & Co., Chartered Accountants, 6-3-655/2/3, Somajiguda, Hyderabad. |
| 2. | राजस्व/ The Revenue | : | The Income Tax Officer, Ward – 1(2), Hyderabad. |
| 3. | The Principal Commissioner of Income Tax, Hyderabad. | | |
| 4. | विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, हैदराबाद / DR, ITAT, Hyderabad | | |
| 5. | गार्डफ़ाईल / Guard file | | |

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Hyderabad