

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. 588 & 589/Viz/2025
(निर्धारण वर्ष/Assessment Year:2014-15 & 2015-16)

Satyanarayana Saka, Someswaram. PAN: HLBPS2932A	Vs.	Income Tax Officer, Kakinada.
(Appellant)		(Respondent)
निर्धारिती द्वारा/Assessee by:	Shri KSS Sarma, CA	
राजस्व द्वारा/Revenue by:	Dr. Aparna Villuri, Sr. AR	
सुनवाई की तारीख/Date of Hearing:	02/12/2025	
घोषणा की तारीख/Date of Pronouncement:	05/12/2025	

आदेश / ORDER

PER. RAVISH SOOD, JM :

The captioned appeals filed by the assessee are directed against the respective orders passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, dated 15/07/2025 which in turn arises from the respective orders passed by the AO under section 271(1)(c) of the Income Tax Act, 1961 (for short, "the Act"), dated 28/09/2022 for AY 2014-15 and AY 2015-16. As the common issue is involved in the captioned appeals, therefore, the same are being taken

up and disposed of vide a consolidated order. We shall first take up the appeal for the AY 2014-15, ITA No.588/Viz/2025 and the order therein passed shall apply mutatis mutandis for the purpose of disposing of the other appeal.

2. The assessee has assailed the impugned order of the CIT(A) on the following grounds of appeal:

- “1. The order of CIT (Appeals) NFAC is arbitrary and unjust.
2. The Hon CIT(A) ought to have waited for the conclusion of the assessment which in appeal.
3. The Hon CIT(A) failed to see that the bank account belongs to Sri M Srinivas and the bank statement was never supplied to the appellant without which the appellant could not furnish his submissions.
4. The Hon CIT(A) as well as AO automatically concluded that the bank account belongs to the appellant which is in the name of M Srinivas and no cross examination facility available to the appellant.
5. The appellant craves leave to add to, amend, alter, delete all or any of the above grounds of appeal.”

3. Succinctly stated, the AO based on information that the assessee had not filed his return of income for the subject year, initiated proceedings under section 147 of the Act. Notice under section 148 of the Act, dated 31/03/2021 was issued to the assessee. However, the assessee failed to file his return of income in response to the aforesaid notice.

4. During the course of the assessment proceedings, the AO observed that the assessee during the subject year had made cash deposits of Rs. 26.45 lakhs in his bank account No.048301500766 with ICICI Bank, Branch Ramachandrapuram. As the assessee had failed to come forth with any explanation regarding the source of the subject cash deposits, therefore, the AO made an addition of the same under section 69A of the Act. Accordingly, the AO, vide his order under section 147 r.w.s 144 of the Act, dated 30/03/2023 assessed the income of the assessee at Rs.26.45 lakhs. Also, the AO while culminating the assessment initiated penalty proceedings under section 271(1)(c) of the Act.

5. Thereafter, the AO vide his order passed under section 271(1)(c) of the Act, dated 28/09/2022 imposed a penalty on the assessee for concealing the particulars of income amounting to Rs.8,17,310/-.

6. Aggrieved, the assessee assailed the order passed by the AO under section 271(1)(c) of the Act, dated 28/09/2022 before the CIT(A), but without success.

7. The assessee being aggrieved with the order of the CIT(A) who had sustained the penalty imposed by the AO under section 271(1)(c) of the Act, has carried the matter in appeal before us.

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

9. Sri KSS Sarma, CA, the Learned Authorized Representative (for short, "Ld. AR") for the assessee, at the threshold of hearing of the appeal submitted that the Tribunal vide its consolidated order passed in ITA No.487 and 488/Viz/2025, dated 29/10/2025 for AY 2014-15 and AY 2015-16 had set aside the order passed by the CIT(A) while disposing of the quantum appeal and remanded the issue back to the file of the AO with a direction to reconsider the issue of assessment of cash deposits in the bank account held in the name of M. Srinivas maintained with ICICI Bank, Ramachandrapuram after ascertaining the ownership of the bank account and also consider the explanation, if any, furnished by the assessee. The Ld. AR to buttress the aforesaid factual position had drawn our attention to the order passed by the Tribunal in ITA No. 487 and 488/Viz/2025, dated 29/10/2025 (supra), Page No.11 to 20 of APB.

10. Elaborating further on his contention, the Ld. AR submitted that now when the quantum assessment has been set aside by the Tribunal, therefore, the penalty imposed upon the assessee under section

271(1)(c) of the Act based on the addition made in the said assessment order cannot survive on a stand alone basis and is liable to be set aside.

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

12. We have thoughtfully considered the contentions of the Learned Authorized Representatives of both parties in the backdrop of the orders of the authorities below.

13. Admittedly, it is a matter of fact discernible from the record that the Tribunal vide its consolidated order passed in ITA No. 487 and 488/Viz/2025, dated 29/10/2025 for the AY 2014-15 and AY 2015-16 had set aside the order of the CIT(A) and remanded the issue back to the file of the AO for re-adjudication. For the sake of clarity we deem it apposite to cull out the observations of the Tribunal as under:

"8. We have heard both parties, perused the material available on record, and had gone through the orders of the authorities below. The A.O. has made an addition of Rs. 26,45,000/- towards cash deposited in the bank account of Shri Makindi Srinivas maintained with ICICI Bank on the ground that, Shri Makindi Srinivas admitted before the Department that the said bank account was maintained, controlled and operated by Shri Satyanarayana Saka. The A.O. made additions towards cash deposit in the bank account of third person on the ground that, the assessee is the beneficial owner of the cash deposits into bank account on a substantive basis, when the assessee is unable to explain and counter the statement given by Shri Makindi Srinivas.

Further, at the same time, the A.O. had also made an addition in the hands of Shri Makindi Srinivas towards the very same cash deposits on the basis of the very same bank account held with ICICI Bank, Ramchandrapuram for Rs. 26,45,000/- under Section 69A of the Act. It is a well-settled principle of law that, the same income cannot be assessed in two cases. If at all the A.O. is having any doubt about the ownership of the income or asset, then he can make addition in the hands of one assessee on substantive basis, where he has prima facie evidence that, the money or income belongs to the said person and further, make addition in the hands of another person on a protective basis to protect the interest of revenue.

9. In the present case, the A.O. made a substantive addition in the hands of the assessee, even though, the said bank account is not in the name of assessee and only on the basis of the statement of Shri Makindi Srinivas, and further made addition on substantive basis in the hands of Shri Makindi Srinivas for the very same cash deposits into bank account, which is contrary to the settled position of law. Therefore, we are of the considered view that, the A.O. has erred in making the addition in the hands of the assessee on a substantive basis, even though the primary evidence of bank account was not in the name of the assessee. Since there is a doubt about the ownership of the bank account in view of the statement of Shri Makindi Srinivas, and further the A.O. made additions in both the hands on a substantive basis, in our considered view, the issue needs to be set aside to the file of the A.O. for reconsideration.

10. Insofar as the arguments of the learned counsel for assessee that, if at all the cash deposited into the bank account held in the name of Shri Makindi Srinivas is to be assessed in the hands of the assessee, then the said cash deposits need to be considered as business receipts and reasonable profit may be estimated, in our considered view, unless the ownership of the bank account is established for the particular assessee, the treatment of the said cash deposits as business receipts and estimation of profit does not arise. Further, once the ownership of the bank account is established, then it is for the assessee to furnish relevant evidence to prove that, the cash deposited in the bank account is out of business receipts of the assessee, and then, it is for the A.O. to decide the estimation of profit depending upon the evidence, if any, that may be filed by the assessee. Thus, we set aside the order of the Ld. CIT(A) and remand the issue back to the file of the A.O. with a direction to reconsider the issue of assessment of cash deposits into the bank account held in the name of M. Srinivas maintained with ICICI Bank after ascertaining the ownership of the bank account and also considering explanation, if any furnished, by the assessee.

11. In result, the appeal filed by the assessee in ITA No.487/Viz/2025 for A.Y. 2014-15 is allowed for statistical purposes.

ITA No.488/Viz/2025

12. Since the facts and issues involved in this appeal are identical to the issue which we have considered in the assessee's own case for A.Y 2014-15 in ITA No.487/Viz/2025, the reasons given by us in the preceding paragraph nos.8 to 10 shall *mutatis mutandis* apply to this appeal as well. Therefore, for similar reasons, we set aside the order of the Ld. CIT(A) and remand the issue back to the file of the A.O. with a direction to reconsider the issue of assessment of cash deposits into the bank account held in the name of M. Srinivas maintained with ICICI Bank, after ascertaining the ownership of the bank account and also considering the explanation, if any, furnished by the assessee.

13. In the result, appeal of the assessee in ITA No.488/Viz/2025 for A.Y. 2015-16 is allowed for statistical purposes.

14. We have given thoughtful consideration and are of the view that now when the assessment order wherein the impugned penalty proceedings under section 271(1)(c) of the Act were initiated in the case of the assessee had in itself been set aside to the file of the AO with a direction to re-adjudicate the same, therefore, the impugned penalty imposed by the AO vide his order under section 271(1)(c) of the Act, dated 28/09/2022 cannot survive on a stand alone basis and on the same terms is liable to be set aside to the file of the AO.

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

ITA No.589/Viz/2025
(AY: 2015-16)

16. As the facts and issue involved in the present appeal remain same as are involved in the appeal of the assessee for the AY 2014-15, i.e., ITA No. 588/Viz/2025, therefore, the order therein passed shall apply mutatis mutandis for the purpose of disposing of the present appeal.

17. In the result, both the appeals of the assessee are allowed for statistical purposes in terms of our aforesaid observations.

Order pronounced in the open court on 05th December, 2025.

Sd/- (BALAKRISHNAN S.) ACCOUNTANT MEMBER	Sd/- (RAVISH SOOD) JUDICIAL MEMBER
---	---

Hyderabad,
Dated 05th December, 2025
OKK / SPS

Copy to:

S.No	Addresses
1	Satyanarayana Saka, 7-118 Kochelu Peta Rayavaram Mandalam, Someswaram, East Godavari District, Andhra Pradesh.
2	Income Tax Officer, Kakinada, Andhra Pradesh-533261.
3	The Pr. Commissioner of Income Tax, Visakhapatnam.
4	The DR, ITAT, Visakhapatnam Bench
5	Guard File

TRUE COPY

SENIOR PRIVATE SECRETARY
ITAT, VISAKHAPATNAM