

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'A' Bench, Hyderabad

श्री विजय पाल राव, उपाध्यक्ष एवं श्री मधुसूदन सावडिया, लेखा सदस्य के समक्ष ।

Before Shri Vijay Pal Rao, Vice-President
A N D
Shri Madhusudan Sawdia, Accountant Member

आ.अपी.सं / **ITA No.1619/Hyd/2025**
(निर्धारण वर्ष/Assessment Year: 2016-17)

Shri Sahodhar Reddy Muddasani Hyderabad PAN:AELPM9122N (Appellant)	Vs.	Dy.CIT Central Circle 1(3) Hyderabad (Respondent)
निर्धारिती द्वारा/Assessee by:		CA Shri C Maheshwar Reddy
राजस्व द्वारा/Revenue by:		Shri Sankar Pandi P, Sr. DR
सुनवाई की तारीख/Date of hearing:		06/01/2026
घोषणा की तारीख/Pronouncement:		16/01/2026

आदेश/ORDER

Per Madhusudan Sawdia, A.M.:

This appeal is filed by Shri Sahodhar Reddy Muddasani ("the assessee"), feeling aggrieved by the order passed by the Learned Commissioner of Income Tax (Appeals)-12, Hyderabad ("Ld. CIT(A)") dated 24.09.2025 for the A.Y. 2016-17.

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

1. The order of the Ld. CIT(A) in upholding the order of the Ld. AO u/s 153A is erroneous in law as well as in facts of the case.
2. The Ld. CIT(A) ought to have observed that there is no scope for invoking the provisions of section 45(1) of the IT Act and there should not have been any addition of Rs.3,65,904/- towards capital gains.
3. The Ld. CIT(A) ought to have observed that it is a settled law that mere entering into development agreement cannot construe transfer of capital asset.
4. The Ld. CIT(A) has confirmed the addition without understanding the facts and circumstances, as well as settled law and various judicial precedents.
5. The Ld. CIT(A) ought to have considered the submissions of the Appellant as there was no circumstance of arising any capital gains on entering into development agreement.
6. Without prejudice to the above, the Ld. AO ought to have allowed the claim u/s 54F as the Appellant is rightfully eligible in the light of the facts and circumstances of the case.
7. The Appellant craves to add/leave/alter/modify any other ground of appeal at the time of hearing.



3. The brief facts of the case are that the assessee is an individual deriving income from business and profession and house property. The assessee filed his return of income for the Assessment Year 2016-17 on 16.01.2018 declaring total income of Rs.5,85,350/-. A search and seizure operation under section 132 of the Income Tax Act, 1961 ("the Act") was conducted on 09.08.2018 in the case of the assessee along with M/s Moksha Infracon Private Limited ("the developer") and M/s Kaveri Infra

Projects Private Limited. Consequent to the search, notice under section 153A of the Act was issued by the Learned Assessing Officer (“Ld. Ld. AO”) to the assessee on 18.03.2019. During the assessment proceedings, the Ld. AO noticed that the assessee, along with Shri Cheruku Anand Reddy and Shri Manohar Reddy Cheruku (hereinafter collectively referred to as “the landowners”), had entered into a Joint Development Agreement (“JDA”) dated 19.01.2016 with the developer. As per the terms of the JDA, in respect of land measuring 676 sq. yards, the landowners were entitled to receive 1,853 sq. ft. of built-up area. The Ld. AO held that the execution of the JDA constituted a “transfer” within the meaning of section 2(47) of the Act and that capital gains under section 45(1) of the Act arose in the year of execution of the JDA. Accordingly, the Ld. AO computed long-term capital gain of Rs.3,65,904/- and added the same to the income of the assessee. The assessment was completed by the Ld. AO under section 153A of the Act vide order dated 26.04.2021, determining the total income of the assessee at Rs.9,51,254/-.

4. Aggrieved with the order of the Ld. AO, the assessee preferred an appeal before the Ld. CIT(A), who dismissed the appeal of the assessee by relying upon the judgment of the Hon’ble Andhra Pradesh High Court in the case of Potla Nageswara Rao vs. DCIT 50 taxmann.com 317.

5. Aggrieved with the order of the Ld. CIT (A), the assessee is in appeal before this Tribunal. The Learned Authorized Representative (“Ld. AR”) submitted that the only issue arising for adjudication out of the grounds of the assessee is the addition of Rs.3,65,904/- towards long-term capital gains. It was contended

that no taxable transfer within the meaning of section 2(47) of the Act had taken place during the year under consideration, as the assessee had not received any consideration under the JDA during the relevant year. It was further submitted that possession, if any, was handed over only for the limited purpose of development and not in the nature of possession contemplated under section 2(47)(v) of the Act read with section 53A of the Transfer of Property Act. The Ld. AR submitted that reliance placed by the Ld. CIT(A) on the judgment of the Hon'ble Andhra Pradesh High Court in Potla Nageswara Rao (supra) is misplaced in view of the later decision of the Hon'ble Telangana High Court in the case of Smt. Santha Vidyasagar Annam vs. ITO, 170 taxmann.com 754, wherein it was held that where no consideration is received and possession is handed over only for limited purpose of development, no capital gains can be said to have accrued in the year of execution of the JDA. The Ld. AR further invited our attention to the fact that Shri Manohar Reddy Cheruku, who is also a party to the same JDA, was similarly situated, and this Tribunal in the case of Shri Manohar Reddy Cheruku vs. DCIT in ITA No.1625/Hyd/2025 for AY 2016-17 vide order dated 05.12.2025 has decided the identical issue in favour of the assessee. It was therefore submitted that on the principle of consistency, the appeal of the present assessee deserves to be allowed.

6. Per contra, the Learned Departmental Representative ("Ld. DR") supported the orders of the lower authorities and submitted that as per clauses 22 and 23 of the JDA, the landowners had granted rights to the developer which amounted

...పుస్తకం 2016... సంవత్సరం ప్రారంభం నెం. 1222
 ప్రజాపాలనా వాణిజ్య పరిశోధనా సంస్థ... 32
 ఈ దాఖలకు సమీక్షా సంఖ్య... 114

ENDORSEMENT
 Certified that the following amounts have been paid
 and are reported in this documents. 27,37,00,000 /

1) Stamp Duty:
 1) In the shape of stamp papers..... Rs 100 /
 2) In the shape of challan (U/S. Of I.S. Act, 1896)..... Rs 2737000
 3) In the shape of cash (U/S. 41 Of I.S. Act. 1899.....Rs

ii) Transfer Duty:
 1) In the shape of challan Rs
 2) In the Shape of cash Rs

iii) Registration fees.
 1) In the shape of challan Rs 20000 /
 2) In the shape of cash Rs

iv) User Charges:
 1) In the shape of challan Rs 1000 /
 2) In the shape of cash Rs

TOTAL 27,58,100 /

2016..... సంవత్సరము...
 193...
 చి. అన్నా దేవి...
 చి. అన్నా
 For: Sri Sai Estates (Cheruku Aruna Devi)
 Ch. Aruna w/o Ch. Manohar Reddy, Housewife, s/o H.no. 2-5-33
 Managing Partner Nakkalagutta, Hanamkonda, Warangal city & district
 as single partner of "Sri Sai Estates".

ii) చి. అన్నా దేవి...
 Cheruku Reddy (Cheruku manohar Reddy) & Ch. Mansintha
 Reddy, Advocate, s/o H.no. 2-5-337, Nakkalagutta,
 Hanamkonda, Warangal city & district as S.P.A
 holder for Cheruku Aruna Reddy s/o Ch. Mansintha
 Reddy (Executant at sl-II (i)) vide S.P.A validation
 file no. 9/50/2016 of A.O. Warangal, dated: 08-01-2016.

3. MUDDASANI SAHODER REDDEY, S/o M. INDRA REDDY, aged about: 63 years, Occup: Advocate, R/o H. No. 6-3-24, Pinjarla Street, Hanamkonda, Warangal city and district.

8. On a perusal of the above, we find that Shri Manohar Reddy Cheruku was also one of the landowners and party to the same JDA. We further observe that the facts of the present case

are identical to the facts involved in the case of Shri Manohar Reddy Cheruku vs. DCIT (supra). In this regard, we have also gone through para nos. 7 and 8 of the order of the Tribunal in the case of Shri Manohar Reddy Cheruku vs. DCIT (supra), which is to the following effect:

“7. We have considered the rival submission and perused the material available on record. The Ld. AR has contended that the assessee had not received any consideration whatsoever during the year of JDA and the possession, if any, was handed over only for the limited purpose of facilitating the developer to undertake construction, and not in the nature of possession contemplated under section 2(47) of the Act read with section 53A of the Transfer of Property Act. Therefore, the Ld. AR has argued that no taxable event of “transfer” within the meaning of section 2(47) of the Act had taken place during the year under consideration. In this regard we have gone through para nos. 17 & 18 of the decision of the Hon’ble Telangana High Court in the case of Smt. Shantha Vidyasagar Annam vs. ITO (Supra), which is to the following effect:

“17. Thus, from the aforementioned facts, it is evident that even though there is a contract to transfer the immovable property, which is signed by the parties, yet the contract has not been executed for consideration. A sum of Rs.2,00,000/- mentioned in paragraph 6 of the development agreement is only the performance guarantee which is refundable. The aforesaid amount of Rs.2,00,000/- has not been paid by way of consideration of the transaction. The developer has been handed over the possession for the limited purpose of carrying out the development work. Therefore, in pursuance of the development agreement, the possession of the immovable property has not been handed over to the developer as contemplated under Section 53A of the Transfer of the Property Act, 1882. Therefore, the same does not fall within the definition of ‘transfer’ under Section 2(47) of the Act. 18. Insofar as reliance placed by the learned Senior Standing Counsel for the Revenue in Potla Nageswara Rao (supra) is concerned, the same is an authority for the proposition that element of factual possession and agreement are contemplated as transfer within the meaning of Section 2(47) of the Act. It has further been held that when the transfer is complete, the consideration mentioned in the agreement for sale has to be taken into consideration for the purpose of assessment of income. In the instant case, under the development agreement there is no transfer and the consideration has also not been paid. Therefore, the aforesaid decision of the Division Bench has no application to the fact situation of the case. Similarly, in the case of Arvind S Phake (supra), the possession was handed over to the developer and the entire consideration was paid. In the instant case, consideration has not been paid. Therefore, the Division Bench decision of the Bombay High Court also does

not apply to the fact situation of the case. In Harbour View (supra), the Division Bench of Kerala High Court on the facts of the case found that the possession of the property was handed over under Section 53A of the Transfer of Property Act, 1882. Therefore, the aforesaid decision also has no application to the fact situation of the case.”

8. *On a perusal of the above, we find that the Hon’ble High Court after considering the judgment in Potla Nageswara Rao (supra), has held that unless consideration is received or accrues to the assessee, or unless possession is handed over in the manner contemplated under section 53A of the Transfer of Property Act, no transfer can be said to have occurred for the purpose of section 45 of the Act. In the present case, the revenue has not brought on record any material to show that the assessee received any consideration, monetary or otherwise, during the year of execution of JDA; or the assessee handed over possession to the developer otherwise than for the limited purpose of development. In absence of such essential conditions, the very foundation of invoking section 45(1) of the Act in the year of JDA fails. Respectfully following the binding judgment of the Hon’ble Telangana High Court in the case of Smt. Shantha Vidyasagar Annam vs. ITO (supra), we hold that no taxable capital gains arise in the hands of the assessee during the year under consideration. We therefore find no justification to sustain the addition of Rs.3,65,904/- made on account of alleged long-term capital gains. Accordingly, we set aside the order passed by the Ld. CIT(A) and direct the Ld. AO to delete the addition made on account of long term capital gains.”*

9. On a perusal of the above, we find that this Tribunal, after relying upon the judgment of the Hon’ble Telangana High Court in Smt. Santha Vidyasagar Annam vs. ITO (supra), held that, if the possession given by the landowners to the developer was only for the limited purpose of development and that no consideration had been received during the year of execution of the JDA, no taxable capital gains arose under section 45(1) of the Act in that year. Respectfully following the principle of consistency and the decision of this Tribunal in the case of Shri Manohar Reddy Cheruku vs. DCIT (supra), we hold that no taxable capital gains arose in the hands of the assessee during the year under consideration. Accordingly, we direct the Ld. AO to delete the

addition of Rs.3,65,904/- made on account of long-term capital gains.

10. In the result, appeal of the assessee is allowed.

Order pronounced in the Open Court on 16th January 2026.

Sd/-

Sd/-

(VIJAY PAL RAO) VICE PRESIDENT	(MADHUSUDAN SAWDIA) ACCOUNTANT MEMBER
---	--

Hyderabad dated 16th January 2026.

Vinodan/sps

Copy to:

S.No	Addresses
1	Shri Sahodhar Reddy Muddasani c/o B Narsing Rao & Co. LLP Plot No.554, Road No.92, MCL Colony, Jubilee Hills, Hyderabad 500096
2	Dy. CIT, Central Circle 1(3), Hyderabad 500004
3	Pr. CIT – Central, Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order