

आयकर अपीलीय अधिकरण, हैदराबाद पीठ  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**Hyderabad 'B' Bench, Hyderabad**  
श्री विजय पाल राव, उपाध्यक्ष एवं श्री मधुसूदन सावडिया, लेखा सदस्य के समक्ष ।

**BEFORE SHRI VIJAY PAL RAO, VICE PRESIDENT**  
**AND**  
**SHRI MADHUSUDAN SAWDIA, ACCOUNTANT MEMBER**

आयकर अपीलसं./I.T.A. No.1923/Hyd/2025  
(निर्धारणवर्ष/ Assessment Year: 2016-17)

Allrui Srinivas Raju, Hyderabad. PAN: AHEPR6968H	Vs.	DCIT, Circle-12(1), Hyderabad.
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)

करदाताकाप्रतिनिधित्व/ Assessee Represented by	:	Shri K C Devdas, CA
राजस्वकाप्रतिनिधित्व/ Department Represented by	:	Dr. Narendra Kumar Naik, CIT-DR
सुनवाईसमाप्तहोनेकीतिथि/ Date of Conclusion of Hearing	:	12/03/2026
घोषणा की तारीख/ Date of Pronouncement	:	18/03/2026

**ORDER**

**PER MADHUSUDAN SAWDIA, A.M.:**

This appeal is filed by Shri Allrui Srinivas Raju, ("the assessee"), feeling aggrieved by the order passed by the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)") dated 17/10/2025 for the A.Y.2016-17.

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

“Under facts and circumstances of the case

1. The Appellant order of the Learned Commissioner of Income Tax Appeals-(NFAC), New Delhi [the Ld. CIT(A)] for the assessment year 2016-2017, under section 147, read with section 144 and 144B of Income Tax Act 1961, is wrong on facts and in law.
2. On the facts and circumstances of the case, and in law, the Learned C.I.T(A)/NFAC is not justified in upholding reopening of the assessment of the Appellant under section 147 of the Income Tax Act 1961, on the basis of incomplete information and on the premise that long term capital gain is exigible to tax for the assessment year 2016-2017, in respect of development agreement entered into on 10th July 2015, registered as document No.5930/2015 by four co-owners, wherein the subject land was stock in trade.
3. On the facts and circumstances of the case and in law :-
  - (i) The Ld.CIT(A)/NFAC erred in conforming the long term capital gain at Rs. 12,47,22,564/- on the basis of development agreement, where the land subjected to development agreement was stock in trade and not capital asset.
  - (ii) The Ld.CIT(A) ought to have appreciated that in respect of three co-owners on similar facts, in relation to the said development agreement, where the assessment was reopened and assessments have been completed on "Nil" income, holding that there is no Income accruing to the appellant by way of "Capital Gains", based on the decision of Apex Court in the case of Balbir Singh Maini (251 Taxman 202) (2017) and therefore the assessment of long term capital gains at Rs.12,47,22,564/-, in the case of Appellant wholly unsustainable on the facts of the case.
  - (iii) The development agreement in question perse by no stretch of imagination, can be construed as satisfying the definition of transfer, so as to apply the provisions of clause (v) of sub section (47) of section 2 of Income Tax Act 1961, to trigger the liability to capital gains tax.
  - (iv) The developer has neither performed, nor was willing to perform the obligation under the agreement, and thus not adhering to the development agreement by the developer, will by itself suggest that the Assessing Officer is not justified to tax the hypothetical Long-Term capital gains.
4. In the facts and circumstances of the case :-
  - (i) The Learned CIT(A)/NFAC is not justified in coming to the conclusion that Appellant has not furnished evidence that the subject land was stock in trade.
  - (ii) The finding of the Assessing Officer that Appellant has not furnished any documentary evidence that the character of the land represent stock in in trade, is totally contrary to the facts on records as per the wealth tax returns and also as per the finding of the Assessing Officer in the case of other "two co-owners", whose assessments under identical circumstances were assessed on "NIL" Income.
  - (iii) The Learned CIT(A)/NFAC failed to consider the emphatic and positive findings given by the Inspectors of Income-Tax on the subject that the whole law was barren and bereft of any development and therefore

erroneously came to wrong conclusion that Income has accrued to the Appellant.

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

3. The brief facts of the case are that the assessee is an individual who filed his return of income for Assessment Year 2016–17 on 17.11.2016 admitting total income of Rs.16,31,790/-. Based on specific information flagged under the Risk Management Strategy formulated by the CBDT through the Insight portal, the Learned Assessing Officer (“Ld. AO”) observed that the assessee had entered into a Joint Development Agreement (“JDA”) for an amount of Rs.12,47,22,564/-. Accordingly, the case of the assessee was reopened under section 147 of the Income Tax Act, 1961 (“the Act”) and notice under section 148 of the Act was issued. In response to the said notice, the assessee filed his return of income on 29.04.2021 admitting the same total income of Rs.16,31,790/- as declared in the original return filed under section 139 of the Act. During the course of reassessment proceedings, the Ld. AO observed that the assessee had entered into a JDA dated 10.07.2015 with M/s Jeedimetla Residential Homes Private Limited along with three other land owners. According to the Ld. AO, the assessee was entitled to 20% share in the transaction arising out of the said JDA. The Ld. AO therefore computed an amount of Rs.12,47,22,564/- as long-term capital gain in the hands of the assessee on account of the said JDA. Accordingly, the Ld. AO completed the assessment under section 147 read with section 144B of the Act on 18.05.2023 determining the total income of the assessee at Rs.12,63,54,350/-.

4. Aggrieved by the order of Ld. AO, the assessee filed an appeal before the Ld. CIT(A). The Ld. CIT(A) dismissed the appeal of the assessee and confirmed the addition made by the Ld. AO.

5. Aggrieved by the order of the Ld. CIT(A), the assessee is in appeal before this Tribunal. At the outset, the Learned Authorised Representative ("Ld. AR") submitted that the solitary issue arising out of the grounds of appeal of the assessee relates to the addition of long-term capital gain of Rs.12,47,22,564/- made by the Ld. AO on account of the JDA dated 10.07.2015. The Ld. AR submitted that the assessee along with three other land owners namely A. Bhaskar Raju, D. Srinivasa Raju and D. Satyanarayana Raju had entered into the said JDA with M/s Jeedimetla Residential Homes Private Limited. The Ld. AR submitted that the case of the other three land owners were also reopened under section 147 of the Act on the allegation that profit on account of the said JDA arises in their hands also. The Ld. AR invited our attention to the copies of the assessment orders passed in the cases of A. Bhaskar Raju and D. Satyanarayana Raju placed at page nos. 66 to 73 of the paper book and submitted that in both the cases the Ld. AO has accepted that no transfer had taken place on account of the said JDA and accordingly no addition was made. The Ld. AR further invited our attention to the order passed by the Ld. CIT(A) in the case of D. Srinivasa Raju placed at page nos. 74 to 88 of the paper book and submitted that although the Ld. AO had made addition in that case, the Ld. CIT(A) deleted the addition by holding that no capital gains arise on account of the said JDA. The Ld. AR therefore submitted that when the Revenue itself has

accepted in the cases of the other three co-owners that no capital gain arises on account of the same JDA, the Revenue cannot take a different stand in the case of the present assessee. In support of his contention, the Ld. AR relied upon the decision of the Hon'ble Supreme Court in the case of Union of India v. Kaumudini Narayan Dalal 249 ITR 219, wherein it has been held that it is not open to the Revenue to accept the judgment in the case of one assessee and challenge its correctness in the case of another assessee when the facts are identical. Accordingly, the Ld. AR submitted that the addition made by the Ld. AO in the hands of the assessee is liable to be deleted.

6. Per contra, the Learned Departmental Representative ("Ld. DR") relied upon the orders of the lower authorities and submitted that the Ld. AO has rightly treated the assessee's share in the JDA as taxable long-term capital gain. It was therefore submitted that the order of the Ld. CIT(A) confirming the addition made by the Ld. AO may be upheld.

7. We have heard the rival submissions and perused the material available on record including the case laws relied upon. The addition in the present case arises on account of the JDA dated 10.07.2015 entered into by the assessee with M/s Jeedimetla Residential Homes Private Limited. We have gone through page nos. 1 and 2 of the JDA placed in the paper book, which is to the following effect:

CS 5749  
P.300/15  
9

Original  
HILL COUNTY PROPERTIES LTD  
HILL COUNTY,  
BACHUPALLY,  
MIYAPUR,  
HYDERABAD - 500 090.  
LICENSE No. 21/2008  
5930/2015

02025  
143295  
JUL 02 2015  
15:46  
Rs.0000100 PB6665  
NON-JUDICIAL  
STAMP DUTY  
ANDHRA PRADESH

For Jeedimetla Residential Homes Pvt. Ltd.  
For HILL COUNTY PROPERTIES LIMITED

**DEVELOPMENT AGREEMENT-CUM-IRREVOCABLE GENERAL POWER OF ATTORNEY**

This Development Agreement-Cum-Irrevocable General Power of Attorney (hereinafter referred to as the "Agreement") is made and executed on this the 10<sup>th</sup> day of July 2015 ("Agreement Date") at Telangana by and between:

1. **MR. A. SRINIVAS RAJU**, S/o Mr. A. BhaskaraRaju, aged about 45 years, presently residing at Plot No. 61, survey number 26 and 27, Satyam Enclave East, Petbashirabad, Secunderabad 5000 55(hereinafter referred to as, "Land Owner 1", which expression shall, wherever the context so requires or admits, mean and include his heirs, successors, executors, administrators and assigns) of the **FIRST PART**;

AND

2. **MR. A. BHASKAR RAJU**, S/o Mr. A. SatyaGopalaKrishnamRaju, aged about 69 years, presently residing at Plot No. 61, survey number 26 and 27. Satyam Enclave East, Petbashirabad, Secunderabad 5000 55(hereinafter referred to as, "Land Owner 2", which expression shall, wherever the context so requires or admits, mean and include hisheirs, successors, executors, administrators and assigns) of the **SECOND PART**;

AND

3. **MR. D. SRINIVAS RAJU**, S/o Mr. D. SatyanarayanaRaju, aged about 48 years, presently residing at 602, Coral Block, Sri Sairam Manor, Pragati Nagar, Yousufguda, Hyderabad-500 045(hereinafter referred to as, "Land Owner 3", which expression shall, wherever the context so requires or admits, mean and include his heirs, successors, executors, administrators and assigns) of the **THIRD PART**;

AND

4. **MR. D. SATYANARAYANARAJU**, S/o Mr. D. KotamRaju, aged about 75 years, presently residing at 5-150 A, Kazipalem village, PetalavanipalemMandalam, Bapatla, Guntur District 522329 (hereinafter referred to as, "Land Owner 4", which expression shall, wherever the context so requires or admits, mean and include his heirs, successors, executors, administrators and assigns) of the **FOURTH PART**;

For Jeedimetla Residential Homes Pvt. Ltd.

AND

For Hill County Properties Limited

Authorised Signatory

Authorised Signatory

A. Srinivas  
D. Srinivas

A. B. Raju

No allowed  
71-73

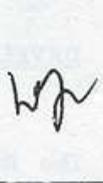
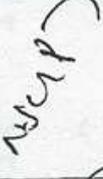
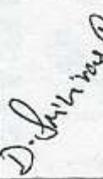
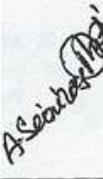
CIT allowed  
74-88

No allowed  
66-69

**Presentation Endorsement:**

Presented in the Office of the Joint Sub-Registrar, Quthbullapur along with the Photographs & Thumb Impressions as required Under Section 32-A of Registration Act, 1908 and fee of Rs. 20000/- paid between the hours of 3 and 4 on the 10th day of JUL, 2015 by Sri A. Srinivas Raju

**Execution admitted by (Details of all Executants/Claimants under Sec 32A):**

Sl No	Code	Thumb Impression	Photo	Address	Signature/Link Thumb Impression
1	CL		 NEERAVKAPASI (AUTHORISED SIGNATORY) [1521-1-2015-5749]	NEERAVKAPASI (AUTHORISED SIGNATORY) S/O. YASHWANT KAPASI OFFICE AT HILL COUNTY, BACHUPALLY, HYD	
2	CL		 SUJATHA RANGACHARI (A) [1521-1-2015-5749]	SUJATHA RANGACHARI (AUTHORISED SIGNATORY) S/O. OFFICE AT IL&FS FINANCIAL CENTRE, PLOT NO. C22, G BLOCK, BANDRA KURLA COMPLEX, BANDRA EAST, MUMBAI-400051	
3	EX		 N.S.L.R. PRASAD RAJU (C) [1521-1-2015-5749]	N.S.L.R. PRASAD RAJU (CONFIRMING PARTY) S/O. LATE. N. VENKAT RAJU FLAT NO. 202 H. NO. B-55, SAI VAISHNAVI VIHAR VENGALRAO NAGAR, S.R. NAGAR, HYDERABAD-38	
4	EX		 N.S.L.R. PRASAD RAJU (S) [1521-1-2015-5749]	N.S.L.R. PRASAD RAJU (SPA HOLDER) S/O. LATE. N. VENKAT RAJU FLA TNO. 202, H. NO. B-55, SAI VAISHNAVI VIHAR, VENGALRAO NAGAR, S.R. NAGAR, HYDERABAD-38	
5	EX		 D. SRINIVAS RAJU:10/07/ [1521-1-2015-5749]	D. SRINIVAS RAJU S/O. D. SATYANARAYANARAJU R/O.602, CORAL BLOCK SRI SAIRAM MANOR, PRAGATINAGAR, YOUSUFGUDA, HYD-45	
6	EX		 A. SRINIVAS RAJU:10/07/ [1521-1-2015-5749]	A. SRINIVAS RAJU S/O. A. BHASKARA RAJU R/O, PLOT NO. 61, SY.N O. 26 & 27, SATYAM ENCLAVE EAST, PETBASHIRABAD, SECUNDERABAD-55	

Bk-1, CS No 5749/2015 & Doct No 5930/2015 Joint SubRegistrar Quthbullapur Sheet 1 of 53



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8. On perusal of the above, we find that A. Bhaskar Raju, D. Srinivasa Raju and D. Satyanarayana Raju are also land owners and parties to the same JDA

along with the present assessee. We have also gone through the assessment orders passed by the Ld. AO in the cases of A. Bhaskar Raju and D. Satyanarayana Raju for Assessment Year 2016–17 placed at page nos. 66 to 73 of the paper book. On perusal of the same, we find that the Ld. AO has accepted that no transfer has taken place on account of the said JDA and accordingly no addition has been made in those cases. We have further gone through the order passed by the Ld. CIT(A) in the case of D. Srinivasa Raju placed at page nos. 74 to 88 of the paper book and on perusal of the same we find that the Ld. CIT(A) has deleted the addition made by the Ld. AO on account of the very same JDA by holding that no capital gains arise from the said transaction. Thus, it is evident that in the case of the other three co-owners who are parties to the same JDA, the Revenue has already accepted that no capital gains arise on account of the said JDA. We have also gone through the judgment of the Hon'ble Supreme Court in the case of Union of India Vs. Kaumudini Narayan Dalal (supra), which is to the following effect:

“1. The order under challenge in this appeal by the Revenue followed the earlier judgment of the same High Court in the case of Pradip Ramanlal Sheth v. Union of India [1993] 204 ITR 866. Learned counsel for the Revenue states that the papers before us suggest that a special leave petition was preferred against that judgment but he has no instructions as to what happened thereafter. Learned counsel for the respondents states that their enquiries with the Registry reveal that no appeal against that judgment was preferred by the Revenue.

2. If the Revenue did not accept the correctness of the judgment in the case of Pradip Ramanlal Sheth [1993] 204 ITR 866 (Guj), it should have preferred an appeal there against and instructed counsel as to what the fate of that appeal was or why no appeal was filed. It is not open to the Revenue to accept that judgment in the case of the assessee in that case and challenge its correctness in the case of other assessees without just cause. For this reason, we decline to consider the correctness of the decision of the High Court in this matter and dismiss the civil appeal.”

9. On perusal of above, we find that the Hon'ble Supreme Court has categorically held that when the Revenue has accepted a judgment in the case of one assessee, it is not open to the Revenue to challenge the correctness of the same judgment in the case of another assessee when the facts are identical. Respectfully following the ratio laid down by the Hon'ble Supreme Court and considering the fact that the Revenue itself has accepted that no capital gain arises in the cases of the other three co-owners who are parties to the same JDA, we hold that no capital gains can be brought to tax in the hands of the present assessee on account of the said JDA. Accordingly, the addition of Rs.12,47,22,564/- made by the Ld. AO and sustained by the Ld. CIT(A) is directed to be deleted.

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

Order pronounced in the Open Court on 18<sup>th</sup> March, 2026.

<b>Sd/- (VIJAY PAL RAO) VICE PRESIDENT</b>	<b>Sd/- (MADHUSUDAN SAWDIA) ACCOUNTANT MEMBER</b>
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Hyderabad, dated 18<sup>th</sup> March, 2026

*Okk, Sr. PS*

Copy to:

S.No	Addresses
1	ALLRUI SRINIVAS RAJU, Plot No.745, Vasanth Nagar Colony, KPHP Colony Post, Hyderabad, Telangana-500072.
2	DCIT, CIRCLE-12(1), AAYAKAR BHAVAN, Opp. LB Stadium, Basheer Bagh, Hyderabad, Telangana-500004
3	Pr. CIT, Hyderabad.
4	DR, ITAT Hyderabad Benches
5	Guard File

*By Order*

*Senior Private Secretary,  
ITAT, Hyderabad.*