

**आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम****IN THE INCOME TAX APPELLATE TRIBUNAL  
VISA KHAPATNAM "SMC" BENCH, VISA KHAPATNAM****(HYBRID HEARING)****श्री विजय पाल राव, उपाध्यक्ष, एवं श्री एस बालाकृष्णन, लेखा सदस्य के समक्ष  
BEFORE SHRI VIJAY PAL RAO, HON'BLE VICE PRESIDENT****&****SHRI S BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER****आयकर अपीलसं./I.T.A.No.333/VIZ/2025  
(निर्धारण वर्ष/ Assessment Year: 2022-23)**

<b>Koti Narasimha Srinivas Vukkurthi</b> C/o. M.V. Prasad, CA First Floor Opposite Prasad & Co. Contractors D.No. 6-3-871 Snehalata, Greenlands Road Begumpet, Hyderabad – 500016  [PAN: ADMPV6385Q]	<b>Vs.</b>	<b>Income Tax Officer-Ward – 1(1)</b> Income Tax office CR Buildings, Kannavari Thota Guntur – 522001, Andhra Pradesh
<b>(अपीलधर्मी/Appellant)</b>		<b>(प्रत्यर्थी/Respondent)</b>

करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri MV Prasad, CA
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Dr.Aparna Villuri, Sr. AR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	17.07.2025
घोषणा की तारीख/Date of Pronouncement	:	25.07.2025

**आदेश /O R D E R****PER SHRI S BALAKRISHNAN, ACCOUNTANT MEMBER:**

1. This appeal is filed by the assessee against order of Learned Commissioner of Income Tax (Appeals)/ADDL/JCIT(A), Agra [hereinafter in

short “Ld.CIT(A)”] vide DIN & Order No. ITBA/APL/S/250/2024-25/1074621147(1) dated 18.03.2025 for the A.Y.2022-23 arising out of the order passed under section 143(1) of Income Tax Act, 1961 (in short ‘Act’) dated 17.02.2023.

2. Brief facts of the case are that, assessee is an individual and carrying business as a commission agent by selling chillies on behalf of farmers under the name and style of M/s. Tejaswi Trades to registered dealers (GST Dealers). Assessee filed the return of income for the A.Y. 2022-23 on 06.09.2022 admitting a total income of Rs.10,51,480/-. A defective notice under section 139(9) of the Act dated 11.11.2022 was issued to the assessee by the Income tax Authority, CPC, Bangalore. In response, assessee has submitted that the Gross commission of Rs.34,49,547/- received from farmers is shown in Profit & Loss Account which is 2% of the turnover. The CPC, Bangalore processed the return of income u/s. 143(1) of the Act on 17.02.2023 wherein it was observed that the CPC has allowed the tax credit amounting to Rs. 10,271/- as against Rs.48,593/- claimed by the assessee in the return of income. Assessee also filed a petition u/s. 154 of the Act seeking re-processing of the Return by allowing the correct TDS Credit claimed by the assessee, wherein the CPC has rejected the petition filed u/s. 154 of the Act.

3. On being aggrieved by Intimation of the Ld. AO, CPC passed under section 143(1) of the Act, assessee preferred an appeal before the Ld. CIT(A)

and filed his submissions. After considering the submissions of the assessee, Ld. CIT(A) dismissed the appeal of the assessee.

4. On being aggrieved by the order of the Ld. CIT(A), assessee is in appeal before us by raising following grounds of appeal: -

*“1. The learned ADDL/JCIT (Appeals) is erred in facts and law while passing the order.*

*2. The learned ADDL/JCIT(Appeals) erred, both on facts and in law in confirming the order passed u/s 143(1) of the Act, by the ld.AO, CPC Bengaluru, by restricting the credit of TDS to Rs. 10,271/- as against Rs.48,593/- claimed in the return of income.*

*3. The learned ADDL/JCIT(Appeals) erred, both on facts and in law, in confirming the action of the AO by invoking the provisions of section 199 and Rule 37BA(2) of the Act.*

*4. The appellant craves leave to add, amend, alter, vary and/or withdraw any or all the above grounds of appeal.”*

5. At the outset, the Ld. Authorised Representative [hereinafter “Ld.AR”] submitted that the assessee is only a commission agent and therefore the total gross sale proceeds cannot be treated as the income of the assessee and thereby the Ld. Revenue Authorities have erred in applying the Rule-37BA of the Income Tax Rules, 1962. The Ld. AR also submitted that as per the Circular No.452, dated 17<sup>th</sup> March, 1986 issued by the Central Board of Direct Taxes [CBDT] the actual turnover of the Kaccha Aarahtias is the commission charged and it does not include the sales affected on behalf of the principals. The Ld.AR strongly relied on the Board Circular (supra) and reiterated that since the

assessee is only a commission agent, the assessee is eligible to get credit of the entire amount deducted as tax at source under section 194Q & 194A of the Act and therefore pleaded that the grounds raised by the assessee may be allowed. The Ld. AR further submitted that on identical facts and circumstances, the Hon'ble Tribunal has decided the case in favour of the assessee in the case of Thota Venkateswarlu vs. ITO in ITA No. 290/Viz/2024 (AY 2023-24), dated 27.08.2024 and Subba Reddy Mareddy v. ITO in ITA No. 96/VIZ/2024 dated 25.11.2024. Therefore, the Ld. AR strongly relied on the decision of this Bench (supra) and pleaded that considering the similar facts and circumstances, the decision taken by the Bench in the case of Thota Venkateswarlu vs. ITO (supra) may be applied to the case of the assessee also.

6. Per contra, Ld. Departmental Representative [hereinafter in short "Ld.DR"] strongly relied on the orders of the Ld. Revenue Authorities and argued in support of the same.

7. We have heard both the sides and perused the material available on record as well as the orders of the Ld. Revenue Authorities. We have also gone through the CBDT Circular No. 452, dated 17<sup>th</sup> March, 1986 (supra) relied on by the Ld.AR. Further, we have also perused the decision of this Tribunal in the case of Thota Venkateswarlu vs. ITO (supra) wherein the Tribunal has relied on the decision of this Bench in the case of Yegneswari General Traders vs. ITO in ITA No. 39/Viz/2024 (AY 2022-23) dated 18.03.2024. For the sake of

reference, the relevant Paras 5 & 6 of the Tribunal's order dated 18.03.2024 (supra) are extracted herein below: -

*"5. I have heard both the sides and perused the material available on record as well the orders of the Ld. Revenue Authorities. I have also gone through the CBDT Circular No. 452, dated 17th March, 1986 (supra) relied on by the Ld. AR. For the sake of reference, the relevant portion of paragraph No.4 of the said Circular (supra) is extracted herein below:*

*"4. The Board are advised that so far as **kaccha arahtias are concerned, the turnover does not include the sales effected on behalf of the principals and only the gross commission has to be considered for the purpose of 44AB.** But the position is difference with regard to paccarahtias....."*

*6. From the above it is clear that Kaccha Arahtias turnover includes only the gross commission and not the sales effected on behalf of their principals. In the present case, it is a fact that the assessee is only a licensed commission agent in Agricultural Market Committee Yard, Guntur which is formed under the rules and regulation of the Government of Andhra Pradesh. Therefore, the Circular issued by the CBDT (supra) squarely applies to the assessee and hence I am of the view that the assessee is acted only as an agent (kaccha arahtia) and therefore it is eligible to get credit of the entire amount deducted as tax at source and there is no short fall of TDS as concluded by the Ld. Revenue Authorities. Accordingly, I hereby set-aside the orders of the Ld. Revenue Authorities and direct the Ld. AO to grant credit of the entire amount deducted as tax at source in the case of the assessee. The grounds raised by the assessee are allowed."*

8. Considering the identical facts and circumstances of the assessee's case with that of the appeal decided by the Tribunal in the case of Yagneswari General Traders vs. ITO (supra), Thota Venkateswarlu vs. ITO (supra) and Subba Reddy Mareddy (supra), following the principle of consistency, we have no hesitation to set-aside the orders of the Ld. Revenue Authorities and direct

the Ld. AO - CPC to grant credit of the entire amount deducted as tax at source in the case of the assessee. Thus, the grounds raised by the assessee are allowed.

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

Order pronounced in the open court on 25<sup>th</sup> July, 2025.

Sd/-

(विजय पाल राव)

(VIJAY PAL RAO)

उपाध्यक्ष/VICE PRESIDENT

Dated: 25.07.2025

Giridhar, Sr.PS

Sd/-

(एस बालाकृष्णन)

(S. BALAKRISHNAN)

लेखा सदस्य/ACCOUNTANT MEMBER

आदेशकीप्रतिलिपिअग्रेषित/ Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee : **Koti Narasimha Srinivas Vukkurthi**  
C/o. M.V. Prasad, CA  
First Floor  
Opposite Prasad & Co. Contractors  
D.No. 6-3-871,  
Snehalata, Greenlands Road  
Begumpet, Hyderabad – 500016
2. राजस्व/ The Revenue : **Income Tax Officer-Ward – 1(1)**  
Income Tax office  
CR Buildings, Kannavari Thota  
Guntur – 522001, Andhra Pradesh
3. The Principal Commissioner of Income Tax
4. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, विशाखापटणम /DR,ITAT, Visakhapatnam
5. The Commissioner of Income Tax
6. गार्डफ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary  
ITAT, Visakhapatnam