

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

**IN THE INCOME TAX APPELLATE TRIBUNAL
VISA KHAPATNAM “SMC” BENCH, VISA KHAPATNAM**

(HYBRID HEARING)

**श्री रवीश सूद ,न्यायिक सदस्य एवं श्री एस बालाकृष्णन,लेखा सदस्य के समक्ष
BEFORE SHRI RAVISH SOOD, HON’BLE JUDICIAL MEMBER**

&

SHRI S BALAKRISHNAN, HON’BLE ACCOUNTANT MEMBER

**आयकर अपील सं./I.T.A.No.524/VIZ/2025
(निर्धारण वर्ष/ Assessment Year:2024-25)**

Nagarjuna Vutla 24B-16-20, Yerakamma Street Ashok Nagar, Eluru West Godavari District - 534002 Andhra Pradesh [PAN: AOUPN9597D]	Vs.	Income Tax Officer Ward-1 Income Tax Office Eluru, West Godavari District Andhra Pradesh
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करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri I. Kama Sastry, CA
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Dr. Aparna Villuri, Sr.AR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	26.11.2025
घोषणा की तारीख/Date of Pronouncement	:	05.12.2025

आदेश /O R D E R

PER SHRI S. BALAKRISHNAN, ACCOUNTANT MEMBER:

1. This appeal is filed by the assessee against the order of Learned Commissioner of Income Tax (Appeals)/ADDL/JCIT(A)-5, Chennai [in short “Ld. CIT(A)”] vide DIN & Order No. ITBA/APL/S/250/2025-

26/1076887404(1) dated 10.06.2025 for the A.Y. 2024-25 arising out of the intimation passed under section 143(1) of the Act dated 05.02.2025.

2. Brief facts of the case are that, assessee being a Non-Resident Individual, filled his return of income on 22.07.2024 after claiming credit under Double Tax Avoidance Agreement by filing Form 67. The return was filed on 22.07.2024. Subsequently, he noticed that the revised return of income was filed on 06.08.2024 by the consultant without his knowledge and consent. The revised return of income was filed with enhanced “salary income” and “income from other sources”. He also noticed that the revised return of income filed in Form ITR-1 was signed and sent to Centralized Processing Centre, Bangalore [in short “CPC”] by the consultant fraudulently without assessee’s knowledge. The CPC, Bangalore has processed the revised return of income and passed intimation under section 143(1) of the Act raising a tax demand of Rs.12,93,760/- vide order dated 05.02.2025. The assessee submitted that he became aware of the revised return of income only on receipt of intimation from CPC, Bangalore by raising a demand of Rs.12,93,760/-. He immediately lodged a complaint with the Police Authorities Cyber Crime Cell that Income Tax Login was hacked by the consultant. No revision of the ITR could be filed by the assessee.

3. Aggrieved by the huge demand assessee filed an appeal before the Ld.CIT(A). The Ld. CIT(A) considering the submissions made by the assessee

observed that the condition as laid down under section 246 of the Act is found to be absent and hence no appeal lies against the said order thereby 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 Ld. CIT(Appeals), National Faceless Appeal Centre is not justified in dismissing the appeal of the assessee in limine on the ground that the order appealed against is not an appealable order as per the provisions of section 246A.

2. The Central Processing Centre is not justified in processing the revised return filed by a third party in the name of the assessee without even matching the income returned in the return with the information available in AIS and 26AS.

3. The Central Processing Centre is not justified in processing the revised return filed by a third party in the name of the assessee with an evil motive to put the assessee to hardship when the return filed is an invalid one.

4. All the above grounds of appeal are mutually exclusive and without prejudice to one another.

The appellant craves leave to add to; alter; amend; modify or delete all or any of the above grounds of appeal.”

5. The only contention of the assessee is dismissal of the appeal by the Ld.CIT(A) treating it as a non-appealable as per provisions of section 246A of the Act.

6. Ld. Authorised Representative [hereinafter “Ld.AR”] submitted that assessee has filed original return of income on 22.07.2024 as per the details available in Form 26AS. However, the consultant Mr. Anand Shivaan has filed a revised return of income mischievously enhancing the income of the assessee

and by signing the ITR-V and sending by post to CPC, Bangalore with a forged signature. Ld.AR submitted that police complaint was registered in the Cyber Branch Cell wherein the FIR copy is attached in Paper Book Page No. 76. On this issue of the contention of the Ld. CIT(A) regarding the status of appealable order, Ld.AR submitted that he relied on the decision of the Hon'ble Supreme Court in the case of CIT v. Kanpur Coal Syndicate (1964) 53 ITR 225 (SC) wherein he argued that assessee is entitled to file an appeal when there is a total denial or partial denial of the liability under the particular circumstances. He therefore pleaded that the matter may be set-aside to the file of the jurisdictional AO to examine the return of income in accordance with the Form 26AS and shall do the denovo assessment.

7. Per contra, Ld. Departmental Representative [hereinafter in short "Ld.DR"] submitted that since the assessee filed revised return of income there is no mistake on the part of the CPC, Bangalore while processing the revised return of income. He therefore pleaded that the order of the Ld. CIT(A) be upheld.

8. We have heard both the sides and perused the material available on record. Admittedly the assessee has filed the original return of income for the A.Y.2024-25 on 22.07.2024 on a self-basis by e-verifying it with Aadhar OTP which was received in the registered linked mobile number of the assessee. However, he noticed that based on the intimation under section 143(1) of the

Act received on 05.02.2025 a revised return of income has been filed with the enhanced income thereby resulting in a tax liability of Rs.12,93,760/-. The assessee has filed the FIR in the Cyber Crime Branch of police and the copy of which is attached in the Page No. 70 of the paper book. Further, as argued by the Ld. AR the income details filed in the revised return did not match with the income displayed in Form 26AS. The only issue now before us is, whether the assessee can file an appeal when there is a denial of liability in accordance with provisions of section 246 of the Act. The Hon'ble Supreme Court in the case of Kanpur (supra) held as follow

“8. We, therefore, hold, agreeing with the High Court, that the Appellate Tribunal has jurisdiction to give directions to the appropriate authority to cancel the assessment made or the association of persons and to give appropriate directions to the authority concerned to make a fresh assessment on the members of that association individually. The answer given by the High Court to the question propounded is correct.

In the result, the appeal fails and is dismissed with costs.”

9. Respectfully following the decision of the Hon'ble Supreme Court in the case of CIT v. Kanpur Coal Syndicate (supra), we direct the Ld. AO to either provide a window to the assessee to file the correct return of income or in the alternative provide an opportunity to the assessee to file the correct computation of income along with the relevant details and documents. We also direct the Ld.AO after examining the documents, the Ld. AO shall assess the correct income of the assessee. Accordingly, the matter is restored to the file of the

Ld.AO for denovo assessment in accordance with the directions as aforesaid.

Thus, the grounds raised by the assessee is statistically allowed.

10. In the result, appeal of the assessee is allowed for statistical purposes.

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

Sd/-
(रवीश सूद)

(RAVISH SOOD)

न्यायिक सदस्य/JUDICIAL MEMBER

Dated: 05.12.2025

Giridhar, Sr.PS

Sd/-

(एस बालाकृष्णन)

(S. BALAKRISHNAN)

लेखा सदस्य/ACCOUNTANT MEMBER

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee : **Nagarjuna Vutla**
24B-16-20, Yerakamma Street
Ashok Nagar, Eluru
West Godavari District - 534002
Andhra Pradesh
2. राजस्व/ The Revenue : **Income Tax Officer**
Ward-1
Income Tax Office
Eluru, West Godavari District
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