

**IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCHES : BENCH "B" HYDERABAD**

**(Through Video Conference)**

**BEFORE SHRI S.S. GODARA, JUDICIAL MEMBER  
AND  
SHRI L.P. SAHU, ACCOUNTANT MEMBER**

**I.T.A. No. 97/Hyd./2016  
A.Y : 2011-12**

M/s Annapurna Business Solutions  
Hyderabad

vs. Dy.CIT,  
Central Circle 2(1)  
Hyderabad

[PAN: AAGFA5343D]

(Appellant)

(Respondent)

For Assessee: Shri S. Rama Rao, Adv.  
For Revenue: Sri Ravi Kiran, D.R.

Date of Hearing : 17/06/2021  
Date of Pronouncement : 12/07/2021

**ORDER**

**PER S.S. GODARA, J.M.**

This Assessee's appeal for A.Y. 2011-12 arises against the Pr.CIT(Central) Hyderabad's order dated 17.03.2015 passed in case no. CIT(Central)/263/8/14-15, involving proceedings u/s 263/144 of the Income Tax Act, 1961 [in short 'the Act'].

Heard both the parties. Case file perused.

2. We notice at the outset that assessee's instant appeal suffers from 154 days delay in filing. Assessee submitted affidavit explaining reasons for the delay and prayed for condonation of delay. Keeping in view the case in Collector Land Acquisition vs. Mst. Katiji & others 1987 AIR 1353(SC) and

University of Delhi vs Union of India Civil appeal no. 9488/2019 dt. 17.12.2019 wherein it was held that such a delay supported by cogent reasons deserves to be condoned so as to make way for the cause of substantial justice. We accordingly hold that the delay in filing is neither intentional nor deliberate and condone the same, proceed with assessee's appeal.

3. We notice that the relevant facts qua the instant lis are indeed in a very narrow compass. The Assessing officer had framed his sec.144 assessment on 30<sup>th</sup> March, 2013 in assessee's case. The Pr.CIT thereafter issued sec.263 show cause notice proposing to revise the same thereby treating it as an erroneous one causing prejudice to the interest of revenue for the following twin reasons:

*a) It is found from the records that the assessee Arm was engaged in H 1 B Visa processing on behalf of their client M/s VLS Inc. Although Visa processing was done by the assessee firm, the amount collected for the services were not deposited in the account of the assessee, but separately deposited in the personal account(s) of employees and relatives from the seized materials marked as Annexure A/ABS/PO-02/9, it was found that the assessee was collecting amount for process from prospective H1B applicants both in India as well as in USA from the year 2006. The fee ranges from Rs. 1,10,000/- to Rs.1,40,000/- in Indian currency and \$ 2190 in US currency. On the basis of the seized material, it was found that during the FY 2010-11 (AY 2011-12), the assessee collected an amount of Rs.19,74,116/- towards H1B applications. As the amount was not disclosed by the assessee, the same was required to be included in the total income of the, assessee for the AY 2011-12.*

*b) It is also found that while completing the assessment the Assessing has not examined the issue relating to the deduction claimed u/s 10A and has allowed the same without proper verification/enquiry.*

3.1. The assessee appears to have filed its written submissions dated 12<sup>th</sup> March, 2015. The Pr.CIT's impugned relief order has thereafter been revised the foregoing assessment thereby directing the Assessing Officer to frame it afresh for the sole reason that his failure to examine and verify the necessary facts renders it an erroneous assessment causing prejudice to the interest of Revenue. This is assessee is aggrieved with.

4. We have given our thoughtful consideration to rival pleadings against and in support of Pr.CIT's impugned revision directions qua the twin issues of the assessee's H1B processing charges and sec. 10A deduction involving of Rs.14,32,546/- and Rs.4,84,95,633/-; respectively. A perusal of the case records suggests that the Pr.CIT's revision directions do not deserve to be concurred with since the Assessing officer's assessment is neither found to be an erroneous one nor prejudicial to the interest of revenue; simultaneously, as per hon'ble Apex court's landmark judgement in Malabar Industries Co Ltd. Vs CIT (2000) 243 ITR 83 (SC). This is for the reason that the Assessing officer's consequential assessment order dated 31<sup>st</sup> December, 2015 has made it clear that the very sum of H1B processing has already been assessed in the hands of M/s VLS IT Services (supra). He has thus proceeded to make protective assessment only in assessee's hands. We therefore conclude that the impugned assessment not having added this amount of Rs.14.32 lakhs in the assessee's case was neither an erroneous action nor did it cause any prejudice to the interest of revenue which could trigger sec.263 revision mechanism in motion.

The factual position is no different qua the latter issue of assessee's claim of sec.10A deduction of Rs.4,84,95,633/- as well in view of the fact that not only this tribunal's coordinate bench order(s) for A.Y. 2004-05 to 2010-11 dated 17.11.2019 treated it eligible for the very deduction restraining the same amount but also hon'ble jurisdictional high court's order has affirmed it in ITA 20/2020. Ld. DR fails to pin-point any distinction on facts qua the impugned sec10A deduction claimed in all these AYs. This is what appears to have led the Assessing officer to adopt the only possible view for accepting

assessee's sec.10A deduction claim even in sec. 144 assessment in issue as well. We therefore conclude qua the instant latter issue that the Pr.CIT herein has erred in law as well as on facts in taking recourse to sec.253 revision mechanism. Same stands reversed and the impugned sec.144 assessment dated 30<sup>th</sup> March, 2013 stands restored as a necessary corollary thereof.

This assessee's appeal is allowed in above terms.

Pronounced in Open Court on 12<sup>th</sup> July, 2021.

**Sd/-**

**Sd/-**

**(L.P. SAHU)**  
**ACCOUNTANT MEMBER**

**(S.S. GODARA)**  
**JUDICIAL MEMBER**

Dated: the 12<sup>th</sup> July, 2021.

\* gmv

Copy of the Order forwarded to:

1. M/s Annapura Business Solutions C/o Sri S. Rama Rao, Advocate, Flat no. 102, Shriya's Elegance, 3-6-643, Street no.9, Himayatnagar, Hyderabad 500 029, Telangana.
2. Dy. CIT, Central Circle 2(1), Hyderabad
3. ACIT, Central Range 2, Hyderabad.
4. Pr.CIT (Central), Hyderabad
5. DR, ITAT, Hyderabad.
6. Guard File.