

**IN THE INCOME TAX APPELLATE TRIBUNAL
VISAKHAPATNAM "SMC" BENCH, VISAKHAPATNAM**

BEFORE SHRI V. DURGA RAO, HON'BLE JUDICIAL MEMBER

**ITA No. 156/VIZ/2016
(Asst. Year : 2008-09)**

R. Rama Krishnam Raju, Vs. ACIT, Circle-1(1),
Prop. Subramanyeswara Traders, Visakhapatnam.
D.No. 27-6-26, Spring Road,
Visakhapatnam.

PAN No. ADQPR 2400 N
(Appellant)

(Respondent)

Assessee by : Shri G.V.N. Hari – Advocate.
Department By : Shri V. Appala Raju - Sr. DR

Date of hearing : 19/12/2017.

Date of pronouncement : 25/01/2018.

ORDER

This is an appeal filed by the assessee against the order of Commissioner of Income Tax (Appeals)-1, Visakhapatnam, dated 24/02/2016 for the Assessment Year 2008-09.

2. Facts of the case are in brief that the assessee is in the business of trading of rice, dal, oils etc., filed his return of income by declaring total income of Rs. 9,17,475/- and agricultural income of Rs. 1,20,000/-. The return filed by the assessee was processed under section 143(1) of the Income Tax Act, 1961 (hereinafter referred to as 'Act') and subsequently after following due procedure, assessment is completed under section 143(3) of

the Act. In the assessment order, the Assessing Officer has noted that on verification of the ledger account extract of M/s. Sri Lakshmi Venkateswara Dall Mill (Venukonda) during the period of 01/04/2007 to 31/03/2008, it is noticed that the assessee had made purchase transaction with the above party for an amount of Rs. 5,01,770/-, whereas such transaction has not found to be posted in the books of account of the assessee. While asking the source of such expenditure, the Authorized Representative for the assessee offered no explanation in this regard. Thus, in view of the provisions of section 69C of the Act, the expenditure incurred by the assessee was treated as his income for such financial year. Accordingly, Rs. 5,01,770/- is added to the total income of the assessee as unexplained expenditure under section 69 of the Act.

3. Assessee carried the matter in appeal before the Id. CIT(A), who confirmed the order of the Assessing Officer by observing that assessee failed to explain the source of the expenditure in respect of purchases made from M/s. Sri Lakshmi Venkateswara Dall Mill and also observed that assessee has not recorded the transactions in his books of account and no evidence is furnished in respect of payments made.

4. On being aggrieved, assessee carried the matter in appeal before the tribunal.

5. Ld. counsel for the assessee has submitted that a reconciliation statement was filed before the Id. CIT(A), wherein the reasons for difference between the books of account of the supplier and the assessee was explained. As per the reconciliation statement, there are two payments made on 04/03/2008 & 29/03/2008, which are not recorded in the books of account of the supplier. He further submitted that supplier, in his confirmation letter only confirmed the supply of material for Rs. 5,01,770/-, but he did not specify that has he received the payment or not; and submitted that issue may be remitted back to the file of the Assessing Officer for examination of payments made by the assessee to the supplier.

6. On the other hand, Id. Departmental Representative strongly supported the orders passed by the authorities below.

7. I have heard both the sides, perused the material available on record and orders of the authorities below.

8. In this case, the Assessing Officer has found from the ledger account of M/s. Sri Lakshmi Venkateswara Dall Mill that he has supplied the material to the assessee of Rs. 5,01,770/- and the assessee is not accounted for in his books of account. When he questioned, assessee has not given proper reply, therefore the Assessing Officer made the addition under section 69C of the Act,

which was confirmed by the Id. CIT(A). Before the tribunal, it is submitted that assessee is having continuous transactions with M/s. Sri Lakshmi Venkateswara Dall Mill and some of the payments made by the assessee were not recorded in the ledger account. By drew my attention at page No. 32 & 33 of the paper book, submitted that the assessee may be given opportunity to substantiate his case before the Assessing Officer. I find that the Assessing Officer has not made complete enquiry in this case, even assessee also not filed complete details before the Assessing Officer to substantiate his case. Under these facts and circumstances of the case, I am of the opinion that this case has to be adjudicated by considering all the facts and relevant details. Therefore, I set aside the order passed by the Id. CIT(A) and direct the Assessing Officer to pass an order *denovo* in accordance with law.

9. In the result, appeal filed by the assessee is allowed for statistical purpose.

Order Pronounced in open Court on this 25th day of Jan., 2018.

Sd/-
(V. DURGA RAO)
Judicial Member

Dated : 25th January, 2018.

vr/-

Copy to:

1. The Assessee - R. Rama Krishnam Raju, Prop. Subramanyeswara Traders, D.No. 27-6-26, Spring Road, Visakhapatnam.
2. The Revenue - ACIT, Circle-1(1), Visakhapatnam.
3. The Pr.CIT-1, Visakhapatnam.
4. The CIT(A)-1, Visakhapatnam.
5. The D.R., Visakhapatnam.
6. Guard file.

By order

(VUKKEM RAMBABU)
Senior Private Secretary,
ITAT, Visakhapatnam.

