

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

**IN THE INCOME TAX APPELLATE TRIBUNAL,
VISA KHAPATNAM BENCH, VISA KHAPATNAM**

श्री वी. दुर्गा राव, न्यायिक सदस्य एवं
श्री डि.एस. सुन्दर सिंह, लेखा सदस्य के समक्ष

**BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER &
SHRI D.S. SUNDER SINGH, ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.A.No.352/Viz/2016
(निर्धारण वर्ष/Assessment Year:2009-10)

Aju Chakradhar
D.No.2-10-13
Mini(PO) Studio Road
Visakhapatnam
[PAN :AGLPC9710C]

Vs. ITO
Ward-5(1)
Visakhapatnam

(अपीलार्थी/ Appellant)

(प्रत्यर्थी/ Respondent)

अपीलार्थी की ओर से/ Appellant by
प्रत्यर्थी की ओर से / Respondent by

: Shri G.V.N.Hari, AR
: Shri V.Appala Raju, DR

सुनवाई की तारीख / Date of Hearing

: 25.04.2018

घोषणा की तारीख/Date of Pronouncement

: 04.05.2018

आदेश / O R D E R

PER D.S. SUNDER SINGH, Accountant Member:

This appeal is filed by the assessee against the order of the Commissioner of Income-Tax (Appeals)[CIT(A)]-2, Guntur vide ITA No.164/2011-12 dated 12.05.2016 for the assessment year 2009-10.

2. The assessee is carrying on real estate business. For the assessment year 2009-10, the assessee filed the return of income declaring total income of Rs.2,06,320/-. During the assessment proceedings, the Assessing Officer(AO) found that the assessee has made cash deposits of Rs.8,75,000/- for which the source was not explained by the assessee. Hence, the AO made the addition of Rs.8,75,000/-.

3. Aggrieved by the order of the AO, the assessee went on appeal before the CIT(A) and argued that the cash deposits of Rs.8,75,000/- were related to the contract works and requested to estimate the income @8% u/s 44AD of I.T.Act. However, the assessee did not furnish any evidence to prove that he has undertaken the contract works and no tax was deducted at source. Before the CIT(A), the assessee filed letters from the following persons stating that the assessee had received the sums for undertaking the contract works.

- Rs.1.8 lakhs received from R.Bhaskar Rao towards contract receipts.
 - Rs.1.25 lakhs received from K.Srinivasa Rao towards contract receipts.
 - Rs.2.1 lakhs received from Kanaka Raju towards contract receipts.
 - Rs.2.1 lakhs received from Srikant towards contract receipts.
 - Rs.1.5 lakhs received from Maheswar Rao towards contract receipts.
- Total - Rs.8.75 lakhs

3.1. The CIT(A) forwarded the letters submitted by the assessee to the AO and requested him cause enquiries and submit the remand report. The AO issued summons to all the contractees, but there was no compliance from the contractees. Hence, the AO submitted the remand report requesting the CIT(A) to confirm the addition and to reject the additional evidence. The Ld.CIT(A) observed certain mismatches with regard to the nature of business and application of section 44AD in the Return of Income and viewed that inconsistent stands taken by the assessee with regard to the nature of business and non response from the creditors at the time of remand proceedings shows that the contention of the assessee that the bank deposits were related to contract works was to be disbelieved. However, considering the submission of the assessee for telescoping cash deposits, the Ld.CIT(A) directed the AO to make the addition of peak credit amounting to Rs.6,95,250/- and allowed the appeal of the assessee partly.

4. Aggrieved by the order of the Ld.CIT(A), the assessee is in appeal before us. During the appeal hearing, the Ld.AR strongly argued that the sum of Rs.8,75,000/- was contract receipts, hence requested to estimate the income @8% of contract receipts.

5. On the other hand, the Ld.DR relied on the orders of the lower authorities.

6. We have heard both the parties and perused the material placed on record. Though the assessee claimed that the sum of Rs.8,75,000/- was contract receipts and requested for estimation of income, it is evident from the statement of computation of income that the assessee has admitted net profit from Real Estate transaction, net income from commission received which proves that the assessee has maintained the books of accounts. The assessee has completely omitted the cash deposits made in the Lakshmi Vilas Bank from taxation and Bank account shows the withdrawals for payments to Steel city Securities, Kapil Chit funds, LIC of India, Ukkunagar chits etc., but not for any contract works. During the assessment proceedings before the AO or before the CIT(A), the assessee failed to furnish any evidence to show that the cash deposits made in the Lakshmi Vilas Bank in question represent the contract receipts. No TDS was made as rightly observed by the Ld.CIT(A) and no details of the contract work carried out by the assessee with regard to the nature of contract, nature of work done, material purchased, payments made, location of the work etc. were furnished by the assessee. The assessee also did not submit any

evidence from the local municipality with regard to the nature of profession carried on by the assessee. No evidence whatsoever has been furnished by the assessee to establish that the cash deposits in question were contract receipts. Hence, we are unable to accept the contention of the assessee that the deposits were related to contract works and to estimate the net profit on the deposits. The AO has rightly assessed the cash deposits as unexplained deposits and the CIT(A) has rightly directed the AO to tax the peak credits as income. Therefore, we do not find any infirmity in the order of the Ld.CIT(A) and the same is upheld. The appeal of the assessee is dismissed.

7. In the result, appeal of the assessee is dismissed.

The above order was pronounced in the open court on 4th May, 2018.

Sd/- (वी.दुर्गा राव) (V. DURGA RAO)	Sd/- (डि.एस. सुन्दर सिंह) (D.S. SUNDER SINGH)
न्यायिक सदस्य/ JUDICIAL MEMBER	लेखा सदस्य/ ACCOUNTANT MEMBER
विशाखापटणम /Visakhapatnam	
दिनांक /Dated : 04.05.2018	
L.Rama, SPS	

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

1. अपीलार्थी / The Appellant- Ajju Chakradhar, D.No.2-10-13, Mini(PO) Studio Road, Visakhapatnam
2. प्रत्यार्थी / The ITO, Ward-5(1), Visakhapatnam
3. The Pr.Commissioner of Income Tax-2 Visakhapatnam
4. The Commissioner of Income-Tax(Appeals)-2, Guntur, Camp : Visakhapatnam
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, विशाखापटणम /DR, ITAT, Visakhapatnam
- 6.गार्डफ़ाईल / Guard file

आदेशानुसार / BY ORDER

// True Copy //

Sr. Private Secretary
ITAT, VISAKHAPATNAM