

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

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

**ITA No. 208/VIZ/2018  
(Asst. Year: 2013-14)**

Mamillapalli Jaya Prakash, vs. ITO, Ward-2,  
D.No. 22C-13-6, Dr. Rangarao Eluru.  
Street, Near Vinayaka Temple,  
Powerpet, Eluru.

PAN No. AGSPM 4275 D  
(Appellant)

(Respondent)

Assessee by : ShriG.V.N. Hari-Advocate.  
Department By : Smt. Suman Malik -Sr.DR

Date of hearing : 06/02/2019.  
Date of pronouncement : 13/02/2019.

**ORDER**

**PER D.S. SUNDER SINGH, ACCOUNTANT MEMBER**

This appeal by the assessee is directed against the order of Pr.Commissioner of Income Tax, Rajahmundry, dated 28/03/2018 for the Assessment Year 2013-14.

**2.** In this case, the assessee has filed return of income admitting total income of Rs. 9,33,680/- on 29/09/2013. The case of the assessee was selected for scrutiny and assessment was completed under section 143(3) by order dated 28/03/2016 by assessing the total income at Rs. 13,72,231/-. Subsequently,

Id.Pr.CIT, Rajahmundry called for records and examined the same and found certain errors which are prejudicial to the interests of the revenue as under:-

- i) The assessee was contributing to chits and has shown the amounts of Rs. 3.26 lakhs, Rs. 22.34 lakhs & Rs.1.12 lakhs as current assets in the balance sheet, but not declared chit dividend income in the return filed for the impugned assessment year.
- ii) The assessee owns 14 acres of fish tanks from which the Assessing Officer estimated the income at Rs. 15,000/- per acre, and according to the Id.Pr.CIT, normal estimation approved by the appellate authorities to Rs. 20,000/- per acre.
- iii) The assessee has shown credit of Rs. 77.98 lakhs in the case of M/s. Sree Ramanjaneya Rytu Sankshema Sangham. The genuineness of the outstanding of the credit has not been examined by the Assessing Officer.

**2.1.** Accordingly, Ld.Pr.CIT has issued the notice under section 263 calling for the objections of the assessee as to why the assessment framed under section 143(3), dated 28/03/2016 should not be revised. In response to the notice issued under section 263, the assessee filed explanation stating that the chit payments are being accounted net of chit dividend income (i.e actual payment) and the loss or profit on the chit contribution is

taken to the profit and loss account on completion of the chit period. This practice is regularly followed by the assessee as per the system of accounting. The Id.AR further stated that the chit amounts were used for the purpose of business and the Assessing Officer had examined the issue and accepted the same at the time of assessment.

Secondly, with regard to the estimation of income on fish tanks, the assessee submitted that reasonable income estimated from the fish tank is Rs. 15,000/- per acre and the same is accepted in the assessee's own case for the earlier years.

With regard to outstanding balance of Rs. 77.98 lakhs, the assessee submitted that confirmation letter from M/s.Sree Ramanjaneya Rytu Sankshema Sangham has filed at the time of assessment, thus the Assessing Officer has accepted the genuineness of transaction, hence, there is no case for revision.

**2.2** The assessee further submitted that the Assessing Officer has completed the assessment after having verified the complete details filed by the assessee, hence, there is no case for taking up for revision under section 263 and therefore, requested to drop the revision proceedings. Not being convinced with the explanation of the assessee, Id.Pr.CIT set aside the order passed

under section 143(3) and directed the Assessing Officer to examine the issue of chit dividend income and income from fish tanks and also directed the Assessing Officer to verify the genuineness of the outstanding credit in the name of M/s. Sree Ramanjaneya Rytu Sankshema Sangham and redo the assessment after giving opportunity to the assessee.

**3.** Aggrieved by the order of the Id.Pr.CIT, assessee is in appeal before this Tribunal.

**4.** We have heard both the parties and perused the material placed on record.

**5.** With respect to the chit dividend income, the assessee has not produced any evidence to substantiate the practice of accounting chit dividend after netting out the expenditure as at the end of the completion of chit the period. Though the assessee stated that he has admitted the chit dividend income net of the expenditure to the profit & loss account after the completion of the chit period, no evidence was placed before the Id.Pr.CIT. The assessee did not furnish any material before us to substantiate that the Assessing Officer has called for the details and examined the issue. Therefore, we up hold the order of the Ld.Pr.CIT and do

not find any reason to interfere with the order of the Id.Pr.CIT and the same is upheld.

**6.** Second issue is with regard outstanding credit in the name of M/s. Sree Ramanjaneya Rytu Sankshema Sangham for an amount of Rs. 77.98 lakhs. During the revision proceedings under section 263, the Id.Pr.CIT found some defects and discrepancies in the confirmation letter furnished by the assessee. There was no evidence to establish that the Assessing Officer had examined the issue at the time of assessment proceedings. Therefore, we hold that the Id.Pr.CIT has rightly taken the case for revision and directed the Assessing Officer to re-examine the issue. Accordingly, we do not find any reason to interfere with the order of the Id.Pr.CIT and the same is upheld.

**7.** The third issue is with regard to estimation of income on fish tanks at the rate of Rs. 15,000/- per acre. During the course of assessment proceedings, the Assessing Officer has proposed to estimate the income at the rate of Rs. 15,000/- per acre, for which it appears that there is no explanation from the assessee, therefore, the Assessing Officer has estimated the income @Rs. 15,000/- per acre after verification of the details furnished by the assessee. The estimation depends on various factors such as the

area of cultivation, availability of water and other infrastructure facilities. Considering the facts of the case, the Assessing Officer has estimated the income at Rs.15,000/- per acre. This Tribunal has also considered the similar issue in the case of *DCIT vs. M/s. Krishna Fisheries* in ITA Nos. 325 to 330/VIZ/2015, dated 26/07/2017 and held that estimation of income at Rs. 15,000/- is reasonable. Therefore, we do not find any error in the assessment order made by the Assessing Officer on the issue of estimation of income in respect of fish tanks. Accordingly, we upheld the order of the Id.Pr.CIT under section 263 in respect of chit dividend income and in respect of M/s. Sree Ramanjaneya Rytu Sankshema Sangham and hold that there is no error in respect of estimation of income on fish tanks. Accordingly, appeal of the assessee is partly allowed.

**8.** In the result, appeal filed by the assessee is allowed in part.

Order Pronounced in open Court on this 13<sup>th</sup> day of Feb., 2019.

Sd/-  
**(V. DURGA RAO)**  
**Judicial Member**

sd/-  
**(D.S. SUNDER SINGH)**  
**Accountant Member**

**Dated: 13<sup>th</sup> Feb., 2019.**

**vr/-**

*Copy to:*

1. *The Assessee-Mamillapalli Jaya Prakash, D.No. 22C-13-6, Dr. Rangarao Street, Near Vinayaka Temple, Powerpet, Eluru.*
2. *The Revenue – Pr.CIT, Rajahmundry.*
3. *The D.R., Visakhapatnam.*
4. *Guard file.*

By order

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