

**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. 75/VIZ/2018
(Asst. Year : 2010-11)**

M/s. Sri Lakshmi Cotton Ginning & Pressing Mills, Kurnuthala (Vs.), Vattiherukuru (M), Guntur District. vs. ACIT, Circle-2(1), Guntur.

PAN No. AAIFS 2788 M
(Appellant)

(Respondent)

Assessee by : Shri G.V.N. Hari – Advocate.
Department By : Smt. Suman Malik – Sr.DR

Date of hearing : 02/04/2019.
Date of pronouncement : 05/04/2019.

ORDER

PER V. DURGA RAO, JUDICIAL MEMBER

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals)-1, Guntur, dated 18/01/2018 for the Assessment Years 2010-11.

2. The assessee has raised the following grounds of appeal:-

- "1. *The order of the Id. CIT(A) is contrary to the facts and also the law applicable to the facts of the case.*
2. *The Id. CIT(A) is not justified in sustaining the addition of Rs. 1,47,830/- made by the Assessing Officer towards disallowance of interest under section 40(a)(ia) of the Act.*

3. *Any other ground that may be urged at the time of appeal hearing."*

3. Facts of the case, in brief, are that assessee-firm is doing the business in cotton ginning and pressing mill under the name and style of M/s. Sri Lakshmi Cotton Ginning and Presing Mills, filed its return of income by declaring total income of Rs. 11,17,710/-. The case of the assessee was selected for scrutiny under CASS and assessment was completed under section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'Act'). Subsequently, an order under section 263 was passed by the Pr.Commissioner, dated 24/02/2015 and directed the Assessing Officer to disallow the interest payment of Rs. 1,47,830/- on account of non-deduction of TDS. The Assessing Officer after following the directions of the Pr.Commissioner, the addition was made to the extent of Rs. 1,47,830/- and the same is added to the total income of the assessee by order dated 30/10/2015. It is a fact that the order of the Pr.Commissioner dated 24/02/2015 not challenged by the assessee.

4. Aggrieved by the order of the Assessing Officer, the assessee carried the matter in appeal before the Id. CIT(A), who adjudicated the appeal on merits and confirmed the order of the Assessing Officer.

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

6. The Id. counsel for the assessee has relied on the grounds of appeal, whereas Id. Departmental Representative relied on the orders of the authorities below.

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

8. In this case, the assessee has filed its return of income by declaring total income of Rs. 11,17,710/-. The case of the assessee was selected for scrutiny under CASS and assessment was completed under section 143(3), dated 22/02/2013 by determining total income of Rs. 16,17,710/-. The order of the Assessing Officer was subjected to revision under section 263. The Pr.Commissioner while exercising the powers conferred in him under section 263, directed the Assessing Officer to disallow the interest payments to the extent of Rs. 1,47,830/- on account of non-deduction of TDS. Accordingly, the Assessing Officer passed order under section 143(3) r.w.s. 263 of the Act on 30/10/2015 by disallowing interest payments of Rs. 1,47,830/-. On appeal, Id.CIT(A) confirmed the order of the Assessing Officer. We find that the order passed by the Pr.Commissioner under section 263 has not been challenged by the assessee. The Pr.Commissioner

has directed the Assessing Officer to disallow the interest expenditure on account of non-deduction of TDS. Accordingly, the Assessing Officer has disallowed the interest expenditure of Rs.1,47,830/-. Under these facts and circumstances of the case, we are of the opinion that when the Pr.Commissioner directed the Assessing Officer to disallow certain expenses, the Assessing Officer has no option except to obey the order of Pr.Commissioner. Accordingly, he disallowed the same. Therefore, Id. CIT(A) ought to have been considered the case on merits for the reason that the order passed by the Pr.Commissioner has not been challenged. Therefore, we find that there is no merit in the argument of the Id. counsel for the assessee. Even otherwise on merits, we find no reason to interfere with the order of the Id.CIT(A). Thus, this appeal filed by the assessee deserves to be dismissed. Accordingly, we do so.

9. In the result, appeal filed by the assessee is dismissed.

Order Pronounced in open Court on this 05th day of April, 2019.

Sd/-
(D.S. SUNDER SINGH)
Accountant Member

sd/-
(V. DURGA RAO)
Judicial Member

Dated: 05th April, 2019.

vr/-

Copy to:

1. *The Assessee - M/s. Sri Lakshmi Cotton Ginning & Pressing Mills, Kurnuthala (Vs.), Vattiherukuru (M), Guntur District.*
2. *The Revenue - ACIT, Circle-2(1), Guntur.*
3. *The Pr.CIT, Guntur.*
4. *The CIT(A)-1, Guntur.*
5. *The D.R., Visakhapatnam.*
6. *Guard file.*

By order

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