

**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. 433/VIZ/2012
(Asst. Year : 2007-08)**

Vunnam Narasimha Rao,
C/o P.V. Subba Rao, CA,
D.No. 29-4-8, K.R. Reddy
Street, Governorpet,
Vijayawada.

vs. ACIT, Circle-2(1),
Vijayawada.

PAN No. AARPV 1129 N
(Appellant)

(Respondent)

Assessee by : Shri P.V. Subba Rao – FCA.
Department By : Shri D.K. Sonawal – CIT DR

Date of hearing : 19/08/2019.
Date of pronouncement : 23/08/2019.

ORDER

PER V. DURGA RAO, JUDICIAL MEMBER

This appeal by the assessee is directed against the order of Commissioner of Income Tax, Vijayawada, dated 27/01/2012 for the Assessment Year 2007-08.

2. When this appeal is taken up for hearing, Id.DR has pointed that as Form No.36 at column No. 2, the appeal filed by the assessee is not maintainable for the reason that the order passed by the Assessing Officer is subsequent to the order passed u/sec.

263 of the Act, therefore it is an appealable order and appeal has to be filed before the Id. CIT(A) and not before the ITAT.

3. On the other hand, Id.AR has submitted that the appeal has to be filed before the Id. CIT(A), however, mistakenly the appeal is filed before the ITAT and submitted that same may be sent to the Id. CIT(A) to decide the appeal on merits of the case.

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

5. We find that the impugned order passed by the Assessing Officer u/sec. 143(3) r.w.s. 263, dated 27/09/2012 is an appealable order before the Id. CIT(A) and therefore appeal has to be filed before the Id. CIT(A) and not before the ITAT. In view of the above, impugned order challenged before the Tribunal is not maintainable, hence the same is dismissed with a liberty to file the appeal before the Id. CIT(A). If assessee files appeal before the Id. CIT(A), the Id. CIT(A) considered the delay liberally and pass the orders on merits in accordance with law.

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

Order Pronounced in open Court on this 23rd day of August, 2019.

Sd/-

(D.S. SUNDER SINGH)
Accountant Member

sd/-

(V. DURGA RAO)
Judicial Member

Dated: 23rd August, 2019.

vr/-

Copy to:

1. *The Assessee – Vunnam Narasimha Rao, C/o P.V. Subba Rao, CA, D.No. 29-4-8, K.R. Reddy Street, Governorpet, Vijayawada.*
2. *The Revenue – ACIT, Circle-2(1), Vijayawada.*
3. *The CIT, Vijayawada.*
4. *The D.R., Visakhapatnam.*
5. *Guard file.*

By order

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