

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.270/Viz/2019
(निर्धारण वर्ष/Assessment Year : 2014-15)**

Vangapandu Prem Kumar
D.No.42-3-1
Sri Venkateswara Garments
Tilak Street, Main Road
Kakinada
[PAN :ABXPV9304L]

Vs. Income Tax Officer
Ward-1
Kakinada

(अपीलार्थी/ Appellant)

(प्रत्यर्थी/ Respondent)

अपीलार्थी की ओर से/ Appellant by : Shri G.V.N.Hari, AR
प्रत्यर्थी की ओर से / Respondent by : Smt.U.Mini Chandran, DR

सुनवाई की तारीख / Date of Hearing : 19.02.2020
घोषणा की तारीख/Date of Pronouncement : 20.02.2020

आदेश /ORDER

Per Shri 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)]-6, Hyderabad in Appeal No.10525/2018-19/B3/CIT(A)-6 dated 13.03.2019 for the Assessment Year (A.Y.)2014-15.

2. In this case, the Assessing Officer (AO) levied penalty of Rs.77,710/- u/s 271B for non submission of audit report by an order dated 29.06.2017. The assessee went on appeal before the CIT(A) and the Ld.CIT(A) dismissed the appeal of the assessee for non prosecution. Therefore the assessee is in appeal before us.

During the appeal hearing, the Ld.AR argued that as per the provisions of Income Tax Act, 1961 (in short 'Act'), the CIT(A) is not permitted to dismiss the appeal for non prosecution and he is bound to pass the order and decide the issue on merits. He further argued that since, the Ld.CIT(A) has not passed the speaking order, he has requested to remit the matter back to the file of the Ld.CIT(A) to decide the appeal on merits.

3. On the other hand, the Ld.DR supported the order of the Ld.CIT(A) and argued that the Ld.CIT(A) has no option except to decide the appeal for non prosecution, since, the assessee neither appeared before the Ld.CIT(A) nor furnished the written submissions.

4. We have heard both the parties and perused the material placed on record. In the instant case, the assessee has filed the appeal before the CIT(A) with statement of facts and the grounds of appeal. As per the

provisions of section 250(6) of the Act, the Ld.CIT(A) is required to decide the appeal on merits with reasons for the decision. In the instant case, the Ld.CIT(A) merely disposed the appeal for non prosecution which is not permitted as per law. Therefore, we are of the considered opinion that the issue needs to be remitted back to the file of the CIT(A) for re adjudicating the issue on merits. Accordingly, we set aside the order of the Ld.CIT(A) and remit the matter back to the file of the CIT(A) with a direction to decide the appeal on merits after giving opportunity to the assessee.

5. In the result, appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 20th February, 2020.

Sd/-

(वी.दुर्गा राव)

(V. DURGA RAO)

न्यायिक सदस्य/JUDICIAL MEMBER

विशाखापटणम /Visakhapatnam

दिनांक /Dated : 20.02.2020

L.Rama, SPS

Sd/-

(डि.एस. सुन्दर सिंह)

(D.S. SUNDER SINGH)

लेखा सदस्य/ACCOUNTANT MEMBER

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

1. निर्धारिती/ The Assessee – Vangapandu Prem Kumar, D.No.42-3-1, Sri Venkateswara Garments, Tilak Street, Main Road, Kakinada
2. राजस्व/The Revenue – Income Tax Officer, Ward-1, Kakinada
3. The Pr.Commissioner of Income Tax-2, Visakhapatnam
4. The Commissioner of Income Tax (Appeals)-6, Hyderabad
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापटणम/DR, ITAT, Visakhapatnam
- 6.गार्ड फ़ाईल / Guard file

आदेशानुसार / BY ORDER

// True Copy //

Sr. Private Secretary
ITAT, Visakhapatnam