

**IN THE INCOME TAX APPELLATE TRIBUNAL
VISAKHAPATNAM BENCH, VISAKHAPATNAM**
(Through web-based video conferencing platform)

**BEFORE SHRI N.K. CHOUDHRY, HON'BLE JUDICIAL MEMBER &
SHRI D.S. SUNDER SINGH, HON'BLE ACCOUNTANT MEMBER**

**I.T.A. No. 79/VIZ/2020
(Asst. Year : 2011-12)**

Smt. Grandhi Suguna,
D.No. 5-97, Main Road,
Opp. Bank of India,
Rajam, Srikakulam.

Vs.

Income Tax Officer
Ward-1, Srikakulam.

PAN No. AAUPG 5848 E
(Appellant)

(Respondent)

Assessee by : None.

Department by : Smt.Suman Malik, Sr.DR

Date of hearing : 24/06/2021.

Date of pronouncement : 24/06/2021.

ORDER

PER N.K. CHOUDHRY, JUDICIAL MEMBER

This appeal has been preferred by the assessee against the order dated 29/11/2019 impugned herein passed by the Id. Commissioner of Income Tax (Appeals)-2 [for short, "Id. Commissioner"], Visakhapatnam u/sec. 250(6) of the Income Tax Act, 1961 (hereinafter referred to as "Act") for the A.Y. 2011-12.

2. In this case, during the course of appellate proceedings before the Id. Commissioner, none appeared on behalf of the appellant/Assessee in spite of affording sufficient opportunity of being heard. Therefore, Id. Commissioner decided the appeal as *ex-parte* by concluding as under:-

"5.2During the course of appellate proceedings, none appeared on behalf of the appellant in spite of affording sufficient opportunity of being. Since, the appellant has not produced any substantial evidence in support of her claim either before the AO or during the course of appeal proceedings. Therefore, I do not find any reason to interfere into the action of the Assessing Officer in making the addition of Rs. 14,70,858/- towards the income under the head of Long Term Capital Gain u/sec. 143(3) of the Act addition and the same is hereby upheld. Therefore, the appeal made by the appellant on this ground is hereby dismissed."

3. Though it appears from the impugned order wherein it is stated that none appeared on behalf of the appellant in spite of affording sufficient opportunity of being heard, but it is not clear as to how many opportunities and by which mode has been given to the Assessee. It a relevant fact that the Id. Commissioner did not pass the order on merits by giving independent finding, but just upheld the order. Therefore, considering the peculiar facts and circumstances, for the ends of justice, it appropriate be appropriate to set aside the impugned order herein and remit the case back to the file of the Id. Commissioner for decision afresh on merits, suffice to say while affording reasonable opportunity(s) of being heard to the Assessee. Hence, ordered accordingly.

4. In the result, appeal filed by the Assessee stands allowed for statistical purpose.

Order Pronounced in open Court on this 24th day of June, 2021.

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

sd/-
(N.K. CHOUDHRY)
Judicial Member

Dated: 24th June, 2021.

vr/-

Copy to:

1. *The Assessee - Smt. Grandhi Suguna, D.No. 5-97, Main Road, Opp. Bank of India, Rajam, Srikakulam.*
2. *The Revenue - ITO, Ward-1, Srikakulam.*
3. *The Pr.CIT-2, Visakhapatnam.*
4. *The CIT(A)-2, Visakhapatnam.*
5. *The D.R., Visakhapatnam.*
6. *Guard file.*

By order

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