

**आयकरअपीलीयअधिकरण, विशाखापटणम पीठ, विशाखापटणम**

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
VISA KHAPATNAM BENCH, VISA KHAPATNAM**

**श्री दुव्वूरु आर एल रेड्डी, न्यायिक सदस्य एवं श्री एस बालाकृष्णन, लेखा सदस्य के समक्ष**

**BEFORE SHRI DUVVURU RL REDDY, HON'BLE JUDICIAL MEMBER &  
SHRI S BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER**

**आयकर अपील सं./I.T.A.No. 27/Viz/2022  
(निर्धारण वर्ष / Assessment Year : 2017-18)**

Chandrakanth Pasumarthi  
H.No.1-29/A, Suryapet Road  
Kodad, Nalgonda

Vs. Deputy Commissioner of  
Income Tax  
Central Circle-1  
Guntur

**[PAN : AFHPC9919A]  
(अपीलार्थी/ Appellant)**

**(प्रत्यर्थी/ Respondent)**

अपीलार्थी की ओर से/ Appellant by  
प्रत्यर्थी की ओर से / Respondent by

: None  
: Shri M.N.Murthy Naik, CIT, DR

सुनवाई की तारीख / Date of Hearing

: 04.05.2022

घोषणा की तारीख/Date of Pronouncement

: 11.05.2022

**ORDER**

**Per Shri Duvvuru RL Reddy, Judicial Member :**

This appeal is filed by assessee against the order of the Commissioner of Income Tax (Appeals) [ in short, "CIT(A)"]-12, Hyderabad in Appeal No.10082/2019-20 dated 31.01.2022 for the Assessment Year (A.Y.) 2017-18.

2. Brief facts of the case are that search and seizure operation u/s 132 of the Income Tax Act, 1961 (in short 'Act') was conducted in the group

cases of Sri Arunacvhalam Manickavel, Guntur, who is the proprietor of M/s Bharathi Soap Works and the Managing Director of M/s Bharathi Consumer Care Products Ltd. The distributors and suppliers of the raw material of these concerns were also covered in the search operation. The assessee being distributor of detergent products, notices u/s 143(2) and 142(1) were also issued and served on the assessee. The assessee had filed his return of income on 29.10.2017 admitting total income of Rs.14,93,080/-. The AO completed the assessment by making an addition of Rs.11,00,000/- u/s 69A as cash of Rs.11,57,000/- was found during search operation at the residential premises of the assessee and the assessee admitted an amount of Rs.11,00,000/- as income from other sources in the return filed. The AO had mentioned that 60% tax rate would be applied but he had inadvertently taxed the income at 30%. Therefore, the AO invoked the rectification proceedings u/s 154 of the Act and brought to tax the unexplained income of Rs.11,00,000/- u/s 115BBE at 60% tax rate. The Ld.CIT(A) held that the AO has rightly invoked 143(3) r.w.s. 153B(1)(B) of the Act while passing the assessment order. None appeared on behalf of the assessee before the Ld.CIT(A) or there was no representation or written submission filed by the assessee. Therefore, the Ld.CIT(A) dismissed the appeal ex-parte based on the material available on record.

3. On being aggrieved the assessee preferred an appeal before the Tribunal and raised the following grounds of appeal :

1. *On the facts and the circumstances of the case, the orders passed by Ld.CIT(A)-12, Hyderabad is erroneous and bad in law.*

2. *On the facts and circumstances of the case, the Ld.CIT(A) ought to have considered the ground raised by the Assessee / Appellant that the order passed by the Ld.AO u/s 143(3) r.w.s. 153B(1)(b) is bad in law. The assessment ought to have been made u/s 143(3) not u/s 153B(1)(b) as the Assessee / Appellant issued notice u/s 142(1) not just u/s 153A or 153C.*

3. *On the facts and the circumstances of the case, the Ld.CIT(A) ought to have considered the contention of the Assessee / Appellant that passing order u/s 154 and levying tax of Rs.7,03,390/- u/s 115BBE is bad in law and thus erred by upholding the order passed u/s 154.*

4. *On the facts and circumstances of the case, the Ld.CIT(A) erred by not considering the submission / contention of the Assessee / Appellant that without the prejudice to the above contentions, the Assessee had admitted Rs.11,00,000/- as additional income for covering the deficiencies in business income of the Assessee / Appellant which is evident from declaration given from the statement recorded on 03.11.2016 and not under section 69A. Hence, tax ought not to have been levied u/s 115BBE.*

5. *Interest levied u/s 234B needs to be recomputed.*

6. *The Assessee / Appellant craves leave to alter, amend or delete any of the above grounds of appeal and / or to add any fresh ground(s) of appeal at or before hearing of the appeal.*

None appeared on behalf of the assessee, inspite of notices being served on the assessee.

4. The Ld.DR submitted that the assessee was given sufficient opportunities, but he did not appear before the Ld.CIT(A). Thereafter, the CIT(A) passed the order on merits. Hence, the order passed by the Ld.CIT(A) is to be confirmed.

5. We have heard the Ld.DR and perused the material placed on record. The Ld.CIT(A) had given sufficient opportunity to the assessee, but he failed to appear before the Ld.CIT(A). Therefore, the Ld.CIT(A) passed the orders based on the material available on record. However, in order to maintain the principles of natural justice, we are of the view that it is a fit case to provide one more opportunity to the assessee to substantiate his case. Hence, we remit the matter back to the file of the Ld.CIT(A) for fresh adjudication after providing a reasonable opportunity of being heard to the assessee. The assessee is also directed to cooperate and comply with the notices of Ld.CIT(A), failing which, the Ld.CIT(A) is at liberty to pass appropriate order in accordance with law.

6. In the result, appeal of the assessee is allowed for statistical purposes.

Order Pronounced in open Court on 11<sup>th</sup> May, 2022.

Sd/-

(एस बालाकृष्णन)  
(S.BALAKRISHNAN)

लेखा सदस्य/ACCOUNTANT MEMBER न्यायिकसदस्य/JUDICIAL MEMBER

Dated : 11.05.2022

L.Rama, SPS

Sd/-

(दुव्वूरु आर.एल रेड्डी)  
(DUVVURU RL REDDY)

लेखा सदस्य/ACCOUNTANT MEMBER न्यायिकसदस्य/JUDICIAL MEMBER

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

1. निर्धारिती/ The Assessee - Shri Chandrakanth Pasumarthi, H.No.1-29/A, Suryapet Road, Kodad, Nalgonda
2. राजस्व/The Revenue –Dy.Commissioner of Income Tax, Central Circle-1, Guntur
3. प्रधान आयकर आयुक्त / The Pr.Commissioner of Income Tax (Central), Visakhapatnam
4. आयकर आयुक्त (अपील) / Commissioner of Income Tax (Appeals)-12, Hyderabad
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापटणम/ DR,ITAT, Visakhapatnam
- 6.गार्ड फ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary  
ITAT, Visakhapatnam