

आयकर अपीलीयअधिकरण, विशाखापटणम पीठ, विशाखापटणम

IN THE INCOME TAX APPELLATE TRIBUNAL,
VISAKHAPATNAM BENCH, VISAKHAPATNAM

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.558/Viz/2019

(निर्धारण वर्ष / Assessment Year : 2016-17)

Ambati Venkata Satya Naga
Malleswara Rao,
Nuzvid, Krishna District,
Andhra Pradesh.
PAN: AVCPA 9606 K

Vs. Income Tax Officer,
Ward-3(4),
Vijayawada.

(अपीलार्थी/ Appellant)

(प्रत्यर्थी/ Respondent)

अपीलार्थी की ओर से/ Appellant by

: Sri GVN Hari, Advocate

प्रत्यर्थी की ओर से / Respondent by

: Sri SPG Mudaliar, Sr. AR

सुनवाई की तारीख / Date of Hearing

: 02/06/2022

घोषणा की तारीख/Date of

: 08/07/2022

Pronouncement

ORDER

PER S. BALAKRISHNAN, Accountant Member :

The captioned appeal is filed by the assessee is against the
order of the Ld. CIT(A), Vijayawada in appeal

No.10219/CIT(A)/VJA/18-19, dated 11/07/2019 passed U/s. 143(3) r.w.s 250(6) of the Act for the AY 2016-17.

2. Brief facts of the case are that the assessee is an individual filed his return of income for the AY 2016-17 on 30/05/2017 admitting his total income at Rs. 2,67,200/- which includes Rs. 67,200/- income from house property and Rs. 2 lakhs business income as commission agent. The case was selected for limited scrutiny under CASS for examination of

(i) cash deposit and transaction in property and

(ii) capital gain/loss on sale of property.

Thereafter, statutory notices U/s. 143(2) and 142(1) were issued and served on the assessee. The assessee has not responded either to the statutory notices or show cause notices issued to explain about the cash deposits made in the bank accounts of the assessee aggregating to Rs. 54,96,000/-. However in ITBA the assessee has responded and produced the explanation wherein it was stated that the assessee had sold two mango gardens on 26/10/2015 which were purchased on 31/12/2010 but the said transaction has not been admitted in the return of income for the AY 2016-17 because the transaction has resulted in long term capital loss. The assessee has also produced computation of

capital loss. On perusing the submissions of the assessee, the Ld. AO rejected the contention of the assessee that part of the sale proceeds were received in advance towards sale of mango garden. The recitals clearly mentioned in the registered sale deeds, that the entire sale consideration was paid in cash only on the date of registration ie 26/10/2015. Accordingly, not being fully satisfied with the explanation given by the assessee, the Ld. AO made addition of Rs. 13,00,000/- U/s. 69A of the Act in the absence of any documentary evidence to substantiate his claim and passed assessment order U/s. 143(3) of the Act dated 4/12/2018. Aggrieved by the order of the Ld. AO, the assessee filed an appeal before the Ld. CIT(A). Before the Ld. CIT(A), the assessee contended on a different footing stating that he could not furnish the proper explanation during the assessment proceedings because of ill-health of his mother. Before the Ld. CIT(A), it was also the contention of the assessee that the cash deposit was made out of the savings of the assessee and his wife out of the incomes admitted by them in their returns of income for the earlier assessment years 2009-10 to 2015-16. In the absence of any documentary evidence as well as the proper explanation to support the assessee's claim that the savings

made out of the income of earlier years, considering the different stand taken by the assessee, the Ld. CIT(A) sustained the addition made by the Ld. AO u/s. 69A of the Act and dismissed the appeal. Aggrieved by the order of the Ld. CIT(A), the assessee is in appeal before us.

3. The assessee has raised the following grounds:

- “1. *The order of the Ld. CIT(A) is erroneous both on facts and in law.*
2. *The Ld. CIT(A) erred in holding that the amount deposited in the bank of Rs. 13 lakhs represent the income of the appellant.*
3. *The Ld. CIT(A) ought to have considered the fact that the appellant was in possession of required funds for depositing the amount into the bank account and that therefore no addition could have been made by the Assessing Officer.*
4. *Any other ground or grounds that may be urged at the time of hearing.”*

4. Before us, the Ld. AR reiterated the submissions made before the Ld. AO and the Ld. CIT(A). However, the Ld. AR could not furnish any proper evidence in support his argument that the assessee had made the cash deposits out of the savings of the assessee and his wife out of the incomes admitted by them in their returns for the earlier AYs 2009-10 to 2015-16. On the

other hand Ld. DR vehemently argued in support of the orders of the Ld. Revenue Authorities.

5. We have heard the rival submissions and carefully perused the materials available on record as well as the orders of the Authorities below. It is apparent from the record that the assessee had made cash deposits in his bank accounts aggregating to Rs. 54,96,000/- and claimed before the Ld. AO that the cash deposits were made out of the sale proceeds of two mango gardens but could not substantiate the same with proper evidence and therefore the Ld. AO after going through the documents produced by the assessee made an addition of Rs. 13 lakhs. On appeal, the assessee came up with a different claim that the cash deposits were made out of the savings of the assessee and his wife out of the incomes admitted by them in their returns of income for the earlier assessment years 2009-10 to 2015-16 which was seemed to be an afterthought and the assessee could not substantiate this claim also with proper documentary evidence. Even before us, the assessee has failed to explain as to how the savings if any out of the incomes of the earlier seven years were kept in cash notwithstanding the fact that the assessee is maintaining bank accounts. Further it is

found that the amount was deposited two months before the date of sale deed. Considering all these facts and circumstances of the case, we are of the considered view that since there is no proper evidence to substantiate the cash deposits and therefore the Ld. CIT(A)'s decision in confirming the same does not call for any interference. Accordingly, the we dismiss the grounds raised by the assessee.

6. In the result, appeal of the assessee is dismissed.

Pronounced in the open Court on the 08th July, 2022.

Sd/-

(दुव्वूरु आर.एल रेड्डी)

(DUVVURU RL REDDY)

न्यायिकसदस्य/JUDICIAL MEMBER

Sd/-

(एस बालाकृष्णन)

(S.BALAKRISHNAN)

लेखा सदस्य/ACCOUNTANT MEMBER

Dated : 08.07.2022

OKK - SPS

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

1. निर्धारिती/ The Assessee – Ambati Venkata Satya Naga Malleswara Rao, 5-117, Opp. Venkateswara Temple, Kothapeta, Nuzvidu, Krishna District.
2. राजस्व/The Revenue – Income Tax Officer, Ward-3(4), CR Building, First Floor Annex., MG Road, Vijayawada, Andhra Pradesh.
3. The Principal Commissioner of Income Tax, Vijayawada.

4. आयकर आयुक्त (अपील)/ The Commissioner of Income Tax (Appeals), Vijayawada.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापटणम/ DR, ITAT, Visakhapatnam
6. गार्ड फ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam