

आयकरअपीलीयअधिकरण, 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.63/Viz/2020
(निर्धारण वर्ष / Assessment Year : 2011-12)**

Smt.Thota Siva Naga Bhagya Lakshmi Vs. Income Tax Officer
D.No.70-50-14A Ward-3(2)
Santhi Nagar Vijayawada
Payakapuram
Vijayawada

**[PAN : ADXPT3823A]
(अपीलार्थी/ Appellant)**

(प्रत्यर्थी/ Respondent)

अपीलार्थी की ओर से/ Appellant by : None
प्रत्यर्थी की ओर से / Respondent by : Shri S.P.G.Mudaliar, DR
सुनवाई की तारीख / Date of Hearing : 08.06.2022
घोषणा की तारीख/Date of Pronouncement : 23.08.2022

ORDER

Per Shri Duvvuru RL Reddy, Judicial Member :

This appeal is filed by the assessee against the order of the Commissioner of Income Tax (Appeals) [in short 'CIT(A)], Vijayawada in Appeal No.81/CIT(A)/VJA/2016-17 dated 24.10.2019 for the Assessment Year (A.Y.) 2011-12.

2. Brief facts of the case are that the assessee is an individual, filed her return of income for the A.Y.2011-12 on 29.02.2012 admitting total income

of Rs.1,98,000/-. In the return of income, the assessee disclosed gross receipts of Rs.30 lakhs from execution of civil construction contracts and worked out business income at Rs.2,40,000/- computed at 8% of the gross receipts on a presumptive basis as per the provisions of Sec.44AD of the Income Tax Act, 1961 (in short 'Act'). The total income was admitted at Rs.1,98,000/- after claiming deduction of Rs.42,000/- under Chapter VIA of the Act. Original assessment u/s 143(3) of the Act was completed on 26.03.2013 determining the total income at Rs.8,49,880/-. In the said assessment order, the AO estimated the income @12.5% of the gross contract receipts as per the decision of ITAT, Hyderabad Bench in the case of K.N.R.Constructions. Subsequently, the Ld.Pr.CIT, Vijayawada initiated proceedings u/s 263 of the Act dated 25.03.2015 and gave direction to the AO to redo the assessment in accordance with law after affording opportunity of being heard to the assessee. The Ld.AO after issuance of notice to the assessee, completed the assessment u/s 143(3) r.w.s. 263 on 30.12.2015 determining the total income at Rs.53,56,053/-. In the said order, the AO held that the contract receipts disclosed by the assessee in the return of income represent the contract receipts of her husband, Sri T.Lakshmi Narayana. The AO further held that the assessee failed to prove the sources of the cash deposits of Rs.52,45,000/- and cheque

deposits / transfers of Rs.1,10,000/- found credited in her bank account held with State Bank of Patiala and the said deposits in the bank account aggregating to Rs.53,55,000/- required to be treated as unexplained income of the assessee. Further, the interest of Rs.1,053/- credited in the said bank account was also added to the total income as the same was not disclosed in the return of income.

3. Aggrieved by the order of the AO, the assessee preferred an appeal before the Ld.CIT(A), Vijayawada. After considering the submissions of the assessee, the Ld.CIT(A) did not condone the delay and also adjudicated the matter on merits. The Ld.CIT(A) has not considered the contentions of the assessee and upheld the assessment order of the Ld.AO.

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

1. *The order of the learned Commissioner of Income Tax (Appeals) is not justified in refusing to condone the delay of 162 days in filing the appeal and hold that the appeal is not maintainable.*

2. (a) *The learned Commissioner of Income Tax (Appeals) is not justified in refusing to condone the delay of 162 days in filing the appeal and holding that the appeal is not maintainable.*

(b) *The learned Commissioner of Income Tax (Appeals) decided the appeal even on merits, ought not have dismissed the appeal as not maintainable.*

3. *The learned Commissioner of Income Tax (Appeals) is not justified in sustaining the addition of Rs.53,56,053/- made by the assessing officer towards alleged unexplained deposits in the bank account.*

4. *The learned Commissioner of Income Tax (Appeals) is not justified in upholding the charging interest of Rs.1,05,112 u/s 234A and Rs.8,55,912 u/s 234B of the Act.*

5. *Any other grounds may be urged at the time of hearing.*

5. The Tribunal has issued notice to the assessee, thereafter many opportunities were given and the case was posted as a last chance, but the assessee did not turn up. On 10.02.2022, Shri G.V.N.Hari, Ld.AR filed a memo stating that he has no instructions from the assessee, therefore, he is withdrawing his vakalat. In spite of notice served on the assessee, neither the assessee nor her counsel appeared before the Tribunal. Therefore, we proceed to dispose of the appeal based on the material available on record.

6. It was the submission of the Ld.DR that 263 was initiated and thereafter, after examining the facts and circumstances of the case, the Ld.AO has passed detailed assessment order u/s 143(3) r.w.s. 263. The assessee preferred an appeal before the Ld.CIT(A), but she could not substantiate her claim. Thereafter, the Ld.CIT(A) has passed detailed order. He further submitted that before the Tribunal also she has not

substantiated her case. Therefore the order passed by the lower authorities to be confirmed.

7. We have heard the submission of the Ld.DR and considered the material placed on record. It is an admitted fact that there are certain cash deposits, but the assessee could not file any material to explain the cash credits in the bank account. Apart from this, she could not file any evidence to explain the cash deposits. In the absence of any material evidence, we find there is no infirmity in the orders passed by the lower authorities. Therefore, we dismiss the grounds raised by the assessee.

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

Order Pronounced in open Court on 23rd August, 2022.

Sd/-	Sd/-
(एस बालाकृष्णन)	(दुव्वूरु आर.एल रेड्डी)
(S.BALAKRISHNAN)	(DUVVURU RL REDDY)
लेखा सदस्य/ACCOUNTANT MEMBER	न्यायिक सदस्य/JUDICIAL MEMBER
Dated : 23.08.2022	
L.Rama, SPS	

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

1. निर्धारिती/ The Assessee- Smt.Thota Siva Naga Bhagya Lakshmi, D.No.70-50-14A, Santhi Nagar, Payakapuram, Vijayawada
2. राजस्व/The Revenue – Income Tax Officer, Ward-3(2), C.R.Buildings, M.G.Road, Vijayawada
3. प्रधान आयकर आयुक्त / The Principal Commissioner of Income Tax, Vijayawada
4. 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