

**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.118/Viz/2022

(निर्धारण वर्ष / Assessment Year :2017-18)

Venkata Krishna Rice Mill,  
Singapuram, Kaikaluru Mandal,  
Krishna District,  
Andhra Pradesh-521333.  
PAN: AADFV 3382 R

(अपीलार्थी/ Appellant)

अपीलार्थी की ओर से/ Appellant by

प्रत्यार्थी की ओर से / Respondent by

सुनवाई की तारीख / Date of Hearing

घोषणा की तारीख/Date of  
Pronouncement

Vs. The Principal Commissioner  
of Income Tax,  
Vijayawada.

(प्रत्यर्थी/ Respondent)

Sri K. Siva Ram Kumar, CA

Sri MN Murthy Naik, CIT-DR

17/11/2022

15/12/2022

**ORDER**

**PER S. BALAKRISHNAN, Accountant Member :**

This appeal is filed by the assessee against the order of the Learned Principal Commissioner of Income Tax [Pr. CIT] passed U/s. 263 of the Income Tax Act, 1961 [the Act] vide DIN & Order

No.ITBA/REV/F/REV5/2021-22/1042125639(1), dated 30/03/2022 for the Assessment Year 2017-18.

2. Brief facts of the case are that the assessee is a firm, filed its return of income admitting a total income of Rs. 3,60,568/- from rice mill activity for the AY 2017-18. The case was selected for complete scrutiny under CASS to examine the low profit though sales turnover increased considerably for the year under consideration. Statutory notices u/s. 143(2) and 142(1) of the Act dated 5/9/2018 and 8/1/2019 respectively were issued and served on the assessee requiring information to be furnished. In response the assessee produced bank statements, audit reports and details of deposits before the Ld. AO. Considering the submissions made by the assessee, the Ld. AO observed that the earlier Gross Profit (GP) is @ 6.94% as compared to the low GP declared by the assessee during the impugned assessment year. The Ld. AO then proceeded to compute the GP @ 6.62% and thereby addition of Rs. 9,08,700/- was made and the same was added to the income returned by the assessee. The assessee did not dispute and accepted the addition made by the Ld. AO. The Ld. Pr. CIT on examination of the relevant assessment record found that the assessment order was passed without making any enquiries or verification and is liable to be treated as erroneous insofar as it is prejudicial to the interest of the Revenue and

thereby invoked his powers u/s. 263 of the Act and issued show cause notice dated 11/2/2022 to the assessee to furnish the information on or before 23/2/2022. In response to the show cause notice the assessee filed the required information before the Ld. Pr. CIT. Considering the submissions made by the assessee, the Ld. Pr. CIT not convinced with the replies and directed the Ld. AO to re-do the assessment in accordance with law after making all necessary enquiries and verification in respect of the issues mentioned in para 5 of the order of the Ld. Pr. CIT after affording a reasonable opportunity to be heard to the assessee. Aggrieved by the order of the Ld. Pr. CIT, the assessee is in appeal before us.

3. The assessee has raised the following grounds of appeal:

- "1. On the facts and in the circumstances of the case and in law, the Ld. Pr. CIT erred in law and facts in assuming jurisdiction U/s. 263 as there was no satisfaction of the dual conditions of "error" in the assessment order" coupled with 'prejudice to the interests of the Revenue' in the impugned assessment order dated 8/12/2019 U/s. 143(3) for the AY 2017-18.*
- 2. On the facts and in the circumstances of the case and in law, the Ld. Pr. CIT erred in law and facts, in his observation that Ld. AO has not verified the sources for the cash deposits of Rs. 27,00,000/- in the demonetization period, whereas the appellant has produced before the Ld. AO the books of account, financial statements, stock registers showing purchase and sales details with quantities, VAT returns etc., to support the sources as generated from its regular business and disclosed in books.*
- 3. On the facts and in the circumstances of the case and in law, the Ld. Pr. CIT ought to have verified the cash book filed before him and ascertained that the cash deposits in demonetization period were sourced from disclosed income of the appellant.*

4. *On the facts and in the circumstances of the case and in law, the Ld. Pr. CIT ought to have verified the details filed before the Ld. AO as well as the information filed before him in the revision proceedings (including the data filed before the Ld. AO again filed before the Ld. Pr. CIT before partially setting aside the assessment order.*
5. *On the facts and in the circumstances of the case and in law, the Ld. Pr. CIT's order of partial set-aside are erroneous on facts and in law.*
6. *Your appellant craves leave to add or amend any of the above grounds of appeal."*

4. The Learned Authorized Representative argued that the Ld. Pr. CIT has raised an issue with regard to cash deposits during the demonetization period amounting to Rs. 27 lakhs. The Ld. AR submitted that relevant bank account statements were submitted before the Ld. AO and also before the Ld. Pr. CIT demonstrating the sources for the cash deposits during the demonetization period. Further, the Ld. AR submitted that the Ld. Pr. CIT has alleged a lower yield at 60% whereas the yield disclosed by the assessee in Form 3CD is @ 69%. The Ld. AR further submitted that in paddy 69% of yielding is reasonable as per the industry standards. The Ld. AR also submitted that the sale from CMR milling is also disclosed in the financials and the sale of by-products such as rice and husk are also disclosed in the financial statements. The Ld. AR submitted that the Ld. AO

verified all the books of account and on satisfying the same framed the assessment order.

Per contra, the Ld. Departmental Representative relied on the order of the Ld. Pr. CIT.

5. We have heard both the sides and perused the material available on record and the orders of the lower authorities. We have also considered the written submissions made by the Ld. AR. We find merit in the contention of the Ld. AR that books of account and bank statements were uploaded during the assessment proceedings and has been verified by the Ld. AO. The Ld. AR in page 35 of the paper book has submitted the acknowledgement uploading the details as required by the Ld. AO. The Ld. AR also demonstrated that percentage of yield was disclosed @ 69% in the tax audit Form 3CD which is enclosed in page 32 of the paper book. We also find from the quantitative details mentioned in Form 3CD that the assessee has disclosed rice and broken rice while filing the return of income. We also find from the bank statements filed by the Ld. AR that the assessee has withdrawn Rs. 18 lakhs on 8/11/2016 and consequent to announcement of demonetization deposited the cash of Rs. 27 lakhs on 11/11/2016. The assessee stated that

the difference of Rs. 9 lakhs pertains to cash sales from 1/11/2016 to 10/11/2016. The Ld. AR also submitted in his paper book page No. 105 the cash withdrawals and deposits have been accounted in the cash book maintained by the assessee. We also find that the assessee had a closing balance of cash on 8/11/2016 at Rs. 31,55,234.91. We therefore find merit in the argument of the Ld. AR that these cash was deposited into the bank account subsequent to announcement of demonetization. In an alternative, the Ld. AR also argued that since the Ld. AO has made addition of Rs. 9,08,700/- due to declaration of low GP ratio which the assessee has accepted, requested for the telescoping benefit in the cash deposits during the demonetization period. We find from the assessment order that the Ld. AO has verified bank account statements, VAT returns, audit report with final accounts schedules and has confirmed that the assessee has explained the cash deposits made in the bank account to the satisfaction of the Ld. AO. In these circumstances of the case, we find that the Ld. Pr. CIT has erred in invoking the provisions of section 263 of the Act treating the order of the Ld. AO as erroneous insofar as it is prejudicial to the interest of the Revenue. We therefore are inclined to quash the

order of the Ld. Pr. CIT passed U/s. 263 of the Act thereby upholding the order of the Ld. AO.

6. In the result, appeal filed by the assessee is allowed.

Pronounced in the open Court on the 15<sup>th</sup> December, 2022.

Sd/-

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

न्यायिकसदस्य/JUDICIAL MEMBER

Sd/-

(एस बालाकृष्णन)  
(S.BALAKRISHNAN)

लेखा सदस्य/ACCOUNTANT MEMBER

Dated : 15.12.2022  
OKK - SPS

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

1. निर्धारिती/ The Assessee – Venkata Krishna Rice Mill, D.No.1/2, Pallevada Post, Singapuram, Kaikaluru Mandal, Krishna Dist., Andhra Pradesh – 521333.
2. राजस्व/The Revenue – (i) Principal Commissioner of Income Tax, SVR Plaza, Revenue Colony, Mogalrajapuram, Vijayawada – 520010, Krishna District, Andhra Pradesh – 520010.  
(ii) ITO, Ward-1, Gudiwada, Krishna District, Andhra Pradesh.
3. The Principal Commissioner of Income Tax
4. आयकर आयुक्त (अपील)/ The Commissioner of Income Tax
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापटणम/ DR, ITAT, Visakhapatnam
6. गार्ड फ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary  
ITAT, Visakhapatnam