

आयकरअपीलीयअधिकरण, विशाखापटणम पीठ, विशाखापटणम

**IN THE INCOME TAX APPELLATE TRIBUNAL,
VISAKHAPATNAM 'SMC' BENCH, VISAKHAPATNAM**

श्री दुव्वूरु आर एल रेड्डी, न्यायिक सदस्य के समक्ष

BEFORE SHRI DUVVURU RL REDDY, HON'BLE JUDICIAL MEMBER

**आयकर अपील सं./I.T.A.No.80/Viz/2022
(निर्धारण वर्ष / Assessment Year : 2011-12)**

Smt.Singuluri Sai Venkata Nagar
Srivani
D.No.2-63/1, Ajjamuru
Near Cheruvu Gattu
Akiveedu Mandal
West Godavari
[PAN : BMMPA9864K]

Vs. Income Tax Officer
Ward-2
Bhimavaram

(अपीलार्थी/ Appellant)

(प्रत्यर्थी/ Respondent)

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

: Shri G.V.N.Hari, AR
: Shri Sankar Pandi, DR

सुनवाई की तारीख / Date of Hearing

: 05.01.2023

घोषणा की तारीख/Date of Pronouncement

: 31.01.2023

आदेश /ORDER

Per Shri Duvvuru RL Reddy, Judicial Member :

Condonation of Delay :

This appeal is filed by the assessee against the order of Commissioner of Income Tax (Appeals), Rajahmahendravaram in ITA No.10215/2015-16/CIT(A)/RJY dated 30.10.2019 for the Assessment Year (A.Y.) 2011-12 with the delay of 824 days. The assessee filed a petition for condonation of delay, submitting that the delay in

filing the appeal was due to the reasons beyond the control of the assessee, therefore, pleaded to condone the delay and admit the appeal for hearing.

2. Brief facts of the case are that the assessee is an individual, sold an immovable property of land admeasuring 629.2 sq.yds for a consideration of Rs.15,00,000/- and made investment in purchase of agricultural land. However, the fair market value of the property as per SRO was Rs.25,17,000/-. The Assessing Officer (AO) had issued a letter to the assessee, requesting to furnish the particulars of taxability of capital gains and also payment of taxes thereon. As there was no response, a notice u/s 148 of the Income Tax Act, 1961 (in short 'Act') was issued on 06.03.2014 and a letter was issued on 09.05.2014, requesting the assessee to furnish her return of income. In response to which, the assessee had filed her return of income electronically on 31.07.2014, admitting total taxable income at Rs.2,68,340/-. Later on notices u/s 143(2) and 142(1) of the Act were issued calling for certain information. The AO observed from the computation statement furnished by the assessee that the assessee had wrongly taken the sale consideration value at Rs.15,00,000/- and arrived at Long Term Capital Gains (LTCG) at Rs.2,68,342/- after claiming cost of acquisition at Rs.2,64,658/- and

exemption u/s 54B of Rs.9,67,000/- for investment made in purchase of agricultural land. When the Ld.AR was asked why the full value of sale consideration was taken at Rs.15,00,000/- instead of the correct adoptable value of Rs.25,17,000/-, the Ld.AR submitted that as per the rules of Registration Authority, if the value of any land in municipal limits is less than 0.20 cents, the extent has to be valued in square yards instead of acres. Hence, the registrar adopted the value of the land in sq.yards instead of agricultural land of acres 0.13 cents. Not being satisfied with the explanation of the assessee, the AO revised the LTCCG by adopting the SRO value of sale consideration at Rs.25,17,000/- and arrived at the taxable LTCCG at Rs.12,85,342/-.

3. On being aggrieved, the assessee preferred an appeal before the CIT(A) and the Ld.CIT(A). The Ld.CIT(A) dismissed the appeal of the assessee.

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

1. The order of the learned Commissioner of Income Tax (Appeals) is contrary to the facts and also the law applicable to the facts of the case.

2. The learned Commissioner of Income Tax (Appeals) is not justified in sustaining the addition of Rs.10,17,000/- made by the assessing officer by substituting the stamp duty value of

Rs.25,17,000/- as the full value of consideration in the place of actual consideration of Rs.15,00,000/- received by the appellant.

3. The learned Commissioner of Income Tax (Appeals) ought to have held that the assessing officer was not justified in making the addition without referring the matter to the valuation officer.

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

5. It was the submission of the assessee that the appeal was filed with the delay of 824 days, since the assessee has left for USA on 05.02.2021 and came to India only on 10.04.2022 and during her visit , her Chartered Accountant did not file the appeal. Therefore, there was huge delay in filing the appeal.

6. On the other hand, the Ld.DR submitted that there is no valid proof to establish her date of return to India.

7. I have heard both the parties, perused the material available on record and also the photostat copies of Visa filed by the assessee. On perusal of the same, I do not find any stamp on Visa indicating her date of arrival to India i.e. on 10.04.2022 or any valid reason to condone such huge delay of 824 days. Therefore I am not inclined to condone the huge delay of 824 days as I do not find any sufficient reason to condone the delay.

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

Order pronounced in the open court on 31st January, 2023.

Sd/-
(दुव्वूरु आर.एल रेड्डी)
(DUVVURU RL REDDY)
न्यायिक सदस्य/JUDICIAL MEMBER

Dated : 31.01.2023

L.Rama, SPS

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

1. निर्धारिती/ The Assessee- Smt.Singuluri Sai Venkata Nagar Srivani, D.No.2-63/1, Ajjamuru, Near Cheruvu Gattu, Akiveedu Mandal, West Godavari
2. राजस्व/The Revenue -Income Tax Officer, Ward-2, J.P.Road, Bhimavaram
3. The Principal Commissioner of Income Tax-2, Visakhapatnam
4. आयकर आयुक्त (अपील)/ The Commissioner of Income Tax (Appeals), Rajamahendravaram
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापटणम / DR,ITAT, Visakhapatnam
- 6.गार्ड फ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam