

आयकर अपीलीयअधिकरण, विशाखापटणम "SMC" 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.122/Viz/2023

(निर्धारण वर्ष / Assessment Year: 2017-18)

Tammi Raju Vegesna,
Hyderabad.

PAN: AAQPV 7090 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. Income Tax Officer,
Ward-2,
Amalapuram.

(प्रत्यर्थी/ Respondent)

Sri M.V. Prasad, AR

Sri Sankar Pandi, Sr. AR

24/05/2023

30/05/2023

O R D E R

PER DUVVURU RL REDDY, Judicial Member :

This appeal filed by the assessee against the order of the Ld. CIT(A)-NFAC in DIN & Order No. ITBA/NFAC/S/250/2022-23/1050800868(1), dated 15/3/2023 arising out of the order passed U/s. 143(3) of the Income Tax Act, 1961 [the Act] for the AY 2017-18.

2. Brief facts of the case are that the assessee is an individual deriving income under the head 'Salary / Pension' has e-filed his return of income for the AY 2017-18 on 05/08/2017 declaring an annual income of Rs. 2,82,640/-. The case was selected for scrutiny under CASS for limited scrutiny to verify the 'cash deposits during the demonetization period'. Accordingly, notice U/s. 143(2) was issued and served on the assessee on 30/09/2018. Thereafter, notices U/s. 142(1) of the Act dated 14/2/2019 & 27/11/2019 calling for information along with detailed questionnaire were served on the assessee. Vide para 2, the Ld. AO observed that the assessee in his reply dated 24/09/2019 and 19/12/2019 submitted that he was a retired professor of ANGR Agricultural University and getting pension and income from agriculture. However, the assessee has not offered any agricultural income for the FY 2016-17 in the return of income filed nor furnished any corroborating documents in support of his claim. The Ld. AO on perusal of the information received from various bank(s) noted that the assessee made cash deposits into his saving bank account with Union Bank of India, Vedureswaram during the demonetization period to the tune of Rs. 10,50,000/-. The Ld. AO observed in his order that though the assessee was given several opportunities to explain the

sources for the said cash deposits with documentary evidence, since the assessee has not complied with any of the notices issued, the Ld. AO invoked the provisions of section 69A of the Act and brought to tax the cash deposits amounting to Rs. 10,50,000/- as unexplained money. Thus, the Ld. AO determined the assessed income at Rs. 13,32,640/-. Aggrieved by the order of the Ld. AO, the assessee preferred an appeal before the Ld. CIT(A).

3. On appeal, the Ld. CIT(A)-NFAC dismissed the appeal of the assessee and sustained the addition made by the Ld. AO. While dismissing the assessee's appeal, the Ld. CIT(A)-NFAC observed that till the date of passing of the order, the assessee neither filed any response to the notices nor filed written submissions and therefore, the Ld. CIT(A)-NFAC is left with no option but to decide the case on the basis of the material available on record. Aggrieved by the order of the Ld. CIT(A)-NFAC, the assessee is in appeal before the Tribunal.

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

- "1. The Ld. First Appellate Authority is not justified in deciding the appeal without affording appropriate opportunity to the appellant.*

2. *The Ld. First Appellate Authority is not justified in confirming the addition of Rs. 10,50,000/- as unexplained cash credit U/s. 69A made by the Ld. AO.*
3. *The Ld. First Appellate Authority is not justified in confirming the action of the Ld. AO in making the addition of Rs. 10,50,000/- U/s. 69A of the Act and bringing the same to tax U/s. 115BBE of the Act.*
4. *The Ld. First Appellate Authority failed to appreciate the fact that the appellant had sufficient sources to explain the deposits in bank account.*
5. *The appellant reserves his right to add, amend, delete or substantiate any ground or grounds during the course of the hearing."*

5. Before the Tribunal, it is the submission of the assessee that the Ld. CIT (A) has passed ex-parte order without providing an opportunity to the assessee of being heard. It was therefore pleaded that the matter may be remitted back to the file of the Ld CIT (A) in order to provide one more opportunity to the assessee of being heard. Ld. DR, on the other hand, vehemently opposed to the submissions of the assessee and submitted that sufficient opportunities had been provided to the assessee however, on the given dates of hearing, neither the assessee responded to the notices nor filed any written submissions before the Ld. CIT (A)-NFAC. Therefore, the Ld. CIT (A)-NFAC had no other option but to pass ex-parte order based on the materials available on record. Hence, it was pleaded that the order passed by the Ld. CIT(A)-NFAC does not call for any interference.

6. On examining the facts and circumstances of the case, material available on record and on perusing the submissions made before the

Tribunal by both the sides, I find that Ld. CIT (A)-NFAC had posted the case on several occasions. However, none appeared on behalf of the assessee before the CIT(A) on the dates of hearing. Therefore, the Ld. CIT (A) was left with no other option except to adjudicate the appeal ex-parte. In this situation, considering the nature of issue involved in the appeal, following the principles of natural justice, considering the prayer of the assessee as well as in the interest of justice, I hereby remit the matter back to the file of Ld. CIT (A)-NFAC in order to consider the appeal afresh on merits by providing one more opportunity to the assessee of being heard. At the same breath, I also hereby caution the assessee to promptly co-operate before the Ld. CIT (A)-NFAC in the proceedings failing which the Ld. CIT (A)-NFAC shall be at liberty to pass appropriate order in accordance with law and merits based on the materials on the record. It is ordered accordingly.

7. In the result, appeal filed by the assessee is allowed for statistical purposes as indicated hereinabove.

Pronounced in the open Court on the 30th May, 2023.

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

Dated :30/05/2023

OKK - SPS

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

1. निर्धारिती/ The Assessee- Tammi Raju Vegesna C/o. Katrapati & Associates, 1-1-298/2/B/3, 1st Floor, Ashok Nagar, Street No.1, Hyderabad - 500 020.
2. राजस्व/The Revenue -Income Tax Officer, Ward-2, College Road, Konkapalli Road, Amalapuram.
3. The Principal Commissioner of Income Tax,
4. आयकर आयुक्त (अपील)/ The Commissioner of Income Tax (Appeals),
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापटणम/ DR, ITAT, Visakhapatnam
6. गार्ड फ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam