

आयकरअपीलीयअधिकरण, विशाखापटणम "एसएमसी"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.183/Viz/2023
(निर्धारण वर्ष / Assessment Year :2013-14)**

Gedda Appa Rao
D.No.2-67, Sitaram Pet
Undi
[PAN : AXOPG9721M]

Vs. Income Tax Officer
Ward-1
Bhimavaram

(अपीलार्थी/ Appellant)

(प्रत्यर्थी/ Respondent)

अपीलार्थी की ओर से/ Appellant by : None
प्रत्यर्थी की ओर से / Respondent by : Shri Madhukar Aves, DR

सुनवाई की तारीख / Date of Hearing : 06.09.2023
घोषणा की तारीख/Date of Pronouncement : 18.10.2023

आदेश /O R D E R

Per Shri Duvvuru RL Reddy, Judicial Member :

This appeal is filed by the assessee against the order of Commissioner of Income Tax (Appeal) [CIT(A)], National Faceless Appeal Centre (NFAC), Delhi vide DIN & Order No. ITBA/NFAC/S/250/2023-24/1053170768(1) dated 25.05.2023 arising out of the assessment order passed u/s 143(3) r.w.s.147 of the Income Tax Act, 1961 (in short "Act") dated 11.12.2017 for the Assessment Year (A.Y.)2013-14.

2. Brief facts of the case are that the assessee, an individual has not filed any return of income for A.Y.2013-14. The AO reopened the case u/s 147 of the Act on the basis of information with respect to cash deposit in

his Andhra Bank A/c No.058010027000016. Notice u/s 148 was issued on 30.06.2016. The assessee filed return of income declaring Rs.1,96,280/- as gross total income in response to notice u/s 148 on 28.09.2016. The Assessing Officer (AO) noted that there was total cash deposit of Rs.32,12,000/- in assessee's bank account. When the assessee was asked to explain the sources for the cash deposit, the assessee explained that the assessee received 1/4th of his share of Rs.2,30,628/- on sale of ancestral property and the balance cash was the income received on sale of fish. Hence, the AO considered Rs.32,12,000-Rs.2,30,628/- = Rs.29,81,672/- as unexplained cash credit u/s 68 of the Act, received as 'on-money' on sale of plot and passed order u/s 143(3) r.w.s.147 computing total taxable income at Rs.31,77,949/- on 11.12.2017.

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

4. On being aggrieved with the order of the Ld.CIT(A) the assessee preferred an appeal before the Tribunal by raising the following grounds :

1. The learned Commissioner of Income Tax (A) erred in confirming the addition of cash deposits in the Appellant's bank account made by the Assessing Officer both on facts and in law.

2. *The Learned Commissioner of Income Tax (A) ought to have appreciated that the reassessment proceedings, initiated by the Assessing Officer on the basis of erroneous facts and borrowed satisfaction and without verification are invalid in law.*

3. *In the facts and circumstance of the case the provision of section 68 of the I.T.Act, 1961 have no application in the absence of books of account maintained by the Appellant and as such the addition under consideration ought to have been deleted.*

4. *The learned Commissioner of Income Tax(A) ought not to have confirmed the addition made only on the basis of suspicion and surmises.*

5. *Without prejudice to the above grounds, alternatively, the addition should have been confined only to the profit element as the deposits in the bank account could at best be taken as only receipts from aquaculture after giving allowance from such deposits towards gross agricultural income and the amounts obtained by the Appellant from the sale of plots during the year.*

6. *The Appellant craves leave to add to modify or substitute the above grounds of appeal.*

5. None appeared on behalf of the assessee. But all the grounds raised by the assessee relate to confirming the additon made u/s 68 of the Act. The assessee contended before the Ld.CIT(A) that the cash deposits were made out of gross sale proceeds from both aqua culture and agriculture and also the gross proceeds from the sale of land besides accumulated saving for the past several years.

6. Ld.DR relied on the order of the Ld.CIT(A) and submitted that the assessee has not filed any evidence before the Ld.CIT(A). Hence, the Ld.CIT(A) has rightly dismissed the appeal of the assessee. He, therefore,

pleaded to uphold the order passed by the Ld.CIT(A) and dismiss the appeal of the assessee..

7. I have heard Ld.DR and perused the material available on record. In the instant case, on the basis of information received, the AO noted that there was cash deposit of Rs.32,12,000/- in assessee's bank account. The assessee explained before the AO that he received 1/4th share from sale of ancestral property and received Rs.2,30,628/- which was deposited in his bank account and the balance cash in bank was the income received on sale of fish. Now, the onus is on the assessee to substantiate his claim with proper evidence. However, the assessee has not furnished any details of such accumulated savings deposited in his account either before the lower authorities or before me. Hence, in the absence of any evidence to establish his contention, I have no reason to interfere with the order passed by the Ld.CIT(A) and accordingly dismiss the grounds raised by the assessee.

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

Order pronounced in the open court on 18th October, 2023.

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

Dated : 18 .10.2023
L.Rama, SPS

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

1. निर्धारिती/ The Assessee – Shri Gedda Appa Rao, D.No.2-67, Sitaram Pet Undi, West Godavari
2. राजस्व/The Revenue – The Income Tax Officer, Ward-1, Income Tax Building, P.P.Road, Bhimavaram
3. The Principal Commissioner of Income Tax, Visakhapatnam
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापटणम / DR,ITAT, Visakhapatnam
- 5..गार्ड फ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam