

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.161/Viz/2023
(निर्धारण वर्ष / Assessment Year : 2017-18)

Geetha Naga Venkata Krishna Prasad Vs. Income Tax Officer
2-268, Annavarappadu Ward-1
Peravali Mandalam Tanuku
West Godavari
[PAN : BTBPB8898N]

(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 : 22.08.2023
घोषणा की तारीख/Date of Pronouncement : 18.10.2023

आदेश / O R D E R

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) [CIT(A)], National Faceless Appeal Centre (NFAC), Delhi vide DIN & Order No.ITBA/NFAC/S/250/2022-23/1047612053(1) dated 24.11.2022, arising out of assessment order passed u/s 143(3) of the Income Tax Act, 1961 (in short 'Act') dated 24.12.2019 for the Assessment Year (A.Y.) 2017-18 with the delay of 119 days. The assessee filed petition for

condonation of delay and submitted that the assessee filed an appeal online on 20.01.2023 against the order of the Ld.CIT(A) dated 24.11.2022. The assessee submitted that he was under bona-fide impression that the filing of an appeal in online mode is a complete and valid procedure and he was unaware of the fact that sending hard copies to the respective registrar of ITAT after filing on appeal online is also required. On 19.05.2023, the assessee submitted all the hard copies through speed post which reached on 22.05.2023, causing delay of 120 days. He submitted that the delay was due to assessee's unawareness regarding filing of appeal in hard copy also before the Tribunal which was unintentional. He, therefore, pleaded to condone the delay and admit the appeal for hearing.

None appeared on behalf of the assessee. I have perused the petition filed by the assessee for condonation of delay and find reasonable cause for filing the appeal belatedly, hence, I condone the delay and admit the appeal for hearing.

2. Brief facts of the case are that the assessee filed his return of income for the A.Y.2017-18 on 31.03.2018, declaring total income of Rs.3,59,610/-. The return was selected for limited scrutiny under CASS to verify cash withdrawals. Accordingly, notices u/s 143(2) and 142(1)

were issued and served on the assessee. During the course of scrutiny proceedings, the Assessing Officer(AO) observed that the assessee is doing business of buying bananas from farmers and selling them to traders. The assessee claimed before the AO that some traders transfer the amounts to his account, while some other traders deposit the amounts in his bank account. The assessee further claimed that he withdraws the cash from his bank accounts and makes payments to the farmers for banana purchases. The AO observed that there were credits of Rs.2,78,66,827/- in assessee's SBI A/c 10678846405 and Rs.82,17,703/- in assessee's SBI A/c No.62291458002 totalling to Rs.3,60,84,530/-. The assessee has not furnished any documentary evidences, in support of his claim, such as details of farmers from whom bananas were purchased, details of agreements, quantitative details of bananas purchased / sold, details of traders to whom bananas were sold etc. Hence, in the absence of any evidence, the AO observed that it is difficult to accept that the assessee has correctly declared his total income in the return of income, accordingly, estimated the income @8% on the total credits in bank accounts of Rs.3,60,84,530/-, which works out to Rs.28,86,760/-. The AO observed that since the assessee under reported his income and the assessed income is greater than the

income determined u/s 143(1)(a), initiated penalty proceedings u/s 270A.

3. Aggrieved by the order of the Ld.AO, the assessee preferred an appeal before the CIT(A) and the Ld.CIT(A) dismissed the appeal of the assessee.

4. Aggrieved by the order of the Ld.CIT(A), the assessee preferred an appeal before the Tribunal by raising the following grounds of appeal :

1. *The order passed by the Honorable Commissioner of Income Tax (Appeals) [CIT(A)], NFAC is against the facts and circumstances of the Appellant's case and is contrary to the provisions of Income Tax Act, 1961.*

2. *The Honorable CIT(A) is unjustified in upholding the addition of Rs.25,27,150/- made by the Learned Assessing Officer towards the estimated profit from the business. The Learned Assessing Officer is unjustified in estimating the profit at much higher side i.e.@8% on total gross receipts without any basis. The Learned Assessing Officer ought to have accepted the income returned by the appellant.*

3. *The CIT(A) is unjustified in upholding the income assessed by the Learned Assessing Officer at Rs.29,68,705/-. In the assessment order issued by the Learned Assessing Officer, it is mentioned that Profit is estimated @8% on total receipts of Rs.3,60,84,530/- which comes to Rs.28,86,760/-. Whereas in the computation sheet issued along with the assessment order, the profit from the business is wrongly taken as Rs.29,68,705. Thus, further, an excess amount of Rs.81,950/- (Rs.29,68,705 - Rs.28,86,760) was wrongly adopted by the Learned Assessing Officer in the computation sheet.*

4. *The Appellant craves to add, alter and amend the above grounds of appeal.*

5. None appeared on behalf of the assessee, but the assessee filed written arguments. Ground No.1 and 4 are general in nature which do not require specific adjudication.

6. Ground No.2 is related to estimation of gross profit @8% on total gross receipts. wherein, the assessee contended that the AO estimated the profit @8% on total gross receipts at much higher side without any basis and the Ld.CIT(A) is also not justified in upholding the addition of Rs.25,27,150/- made by the AO. He, therefore pleaded to set aside the orders passed by the lower authorities and delete the addition made by the AO.

7. Per contra, the Ld.DR contended that the CIT(A) has correctly upheld the addition made by the AO. He, therefore, pleaded to uphold the order passed by the CIT(A) and dismiss the appeal of the assessee.

8. I have heard the Ld.DR and perused the material available on record. The only grievance of the assessee is that the AO estimated the profits @8% on total gross receipts, which is on higher side. But the assessee has not placed any material before me to establish that the estimation of 8% is exorbitant and on higher side. Therefore, in the absence of such evidence, I have no hesitation to come to the conclusion

that 8% of gross receipts is reasonable and therefore dismiss the ground raised by the assessee.

9. Ground No.3 is related to wrong assessment of income by the AO. The assessee contended that in the assessment issued by the Ld.AO, it is mentioned that profit is estimated @8% on total receipts of Rs.3,60,84,530/- which comes to Rs.28,86,760/-, whereas, in the computation sheet issued along with the assessment order, the profit from the business is wrongly taken as Rs.29,68,705/-. Thus, an excess amount of Rs.81,950/- (Rs.29,68,705 - Rs.28,86,760) was wrongly adopted by the Learned Assessing Officer in the computation sheet.

10. The Ld.DR has not disputed the above fact.

11. I have heard the Ld.DR and perused the material available on record. It is undisputed fact that profit is estimated @8% on gross receipts of Rs.3,60,84,530/- which comes to Rs.28,86,760/-, but an amount of Rs.29,68,705/- was taken wrongly by the AO in the computation. Hence, I direct the AO to adopt the correct amount of Rs.28,86,760/- instead of Rs.29,68,705/- in the computation and pass order accordingly. Accordingly, the ground raised by the assessee is allowed.

12. In the result, appeal of the assessee is partly allowed .

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

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

1. निर्धारिती/ The Assessee – Shri Geetha Naga Venkata Krishna Prasad, 2-268, Annavarappadu, Peravali Mandalam, West Godavari
2. राजस्व/The Revenue – The Income Tax Officer, Ward-1, Tanuku
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