

**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.159/Viz/2023

(निर्धारण वर्ष / Assessment Year :2013-14)

Smt. Koneru Vanaja Devi,  
L/R of Koneru Venkata Satya  
Hanuman Prasad (Late),  
Dr. No. 64-5-20, Patamatalanka,  
Vijayawada – 520010.  
PAN: APAPK 7923 D

(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 Income Tax Officer,  
Ward-2(4),  
Vijayawada.

(प्रत्यर्थी/ Respondent)

Sri M.V. Prasad, AR

Sri Madhukar Aves, Sr. AR

21/11/2023

29/11/2023

**ORDER**

**PER DUVVURU RL REDDY, Judicial Member :**

This appeal filed by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [Ld.CIT(A)-NFAC] vide DIN & Order No. ITBA/NFAC/S/250/2022-23/1051135923(1), dated 22/03/2023

arising out of the order passed U/s. 144 r.w.s 147 of the Income Tax Act, 1961 [the Act], dated 26/12/2017 for the AY 26/12/2017.

2. Brief facts of the case are that the assessee is an individual. As per the information available on record, the Ld. AO observed that during the year, the assessee sold an immovable property to M/s. Bathina Transporters, Vijayawada vide registered sale document No. 1123/2013, dated 28/02/2013 for a total consideration of Rs. 1,16,00,000/-. The Ld. AO also observed that the assessee did not file his return of income for the AY 2013-14. Hence, the Ld. AO issued a notice U/s. 148 of the Act on 28/02/2017 which was served on the assessee on 06/03/2017 wherein the assessee was asked to file the return of income. Since the assessee did not respond by filing the return of income, the Ld. AO issued notices U/s. 142(1) of the Act on 22/5/2017 and 24/08/2017 and called for certain information in connection with the assessment for the AY 2013-14. As there was no response from the assessee, the Ld. AO issued a show cause notice on 24/11/2017 and served on the assessee on 5/12/2017. As there was no response either from the assessee or from the assessee's Authorized Representative, the Ld. AO

proceeded to complete the assessment ex-parte by invoking the provisions of section 144 of the Act. Accordingly, the Ld. AO passed assessment order U/s. 144 r.w.s 147 of the Act on 26/12/2017 and assessed the total income at Rs. 80,02,563/- which includes certain additions viz., (i) income from LTCG of Rs. 39,78,310/-; (ii) Rs. 30,38,650/- under unexplained cash credits U/s. 68 of the Act and (iii) Rs. 9,85,603/- under unexplained investment U/s. 69 of the Act.

3. Aggrieved by the order of the Ld. AO, the assessee filed an appeal before the Ld. CIT(A)-NFAC. On appeal, the Ld. CIT(A)-NFAC dismissed the appeal of the assessee by holding that no evidence was adduced by the assessee to substantiate the claim made before him. Aggrieved by the order of the Ld. CIT(A)-NFAC, the assessee is in appeal before us by raising the following grounds of appeal:

- "1. The Ld. CIT(A) is erred in facts and law while passing the order.*
- 2. The Ld. CIT(A) is not justified in confirming the addition made by the AO of Rs. 39,78,310/- towards LTCG on sale of immovable property.*
- 3. The Ld. CIT(A) is not justified in upholding the addition made U/s. 68 of the Act of Rs. 30,38,650/- representing the cash deposits made in the bank account.*

4. *The Ld. CIT(A) is not justified in upholding the addition made U/s. 69 of the Act amounting to Rs. 9,85,603/- invested in purchase of motor vehicle as unexplained.*
5. *The Ld. CIT(A) and AO are not justified in adjudicating the appeal ex-parte without affording any further and reasonable opportunity to the appellant.*
6. *The appellant craves to add to, amend or modify the above grounds of appeal either before or at the time of hearing of the appeal, if it is considered necessary."*

4. At the outset, the Ld. AR submitted that the Ld. Revenue Authorities ie., the Ld. AO as well as the Ld. CIT(A)-NFAC have passed the ex-parte orders without affording reasonable opportunity of being heard to the assessee as per the principles of natural justice. Therefore, the Ld. AR requested that the matter may be remitted back to the file of the Ld. AO in order to provide one more opportunity to the assessee to substantiate its claim otherwise a meritorious case will be thrown out causing grave financial difficulty to the assessee's (Sri Koneru Venkata Satya Hanuman Prasad) family members as the assessee Sri Koneru Venkata Satya Hanuman Prasad was expired on 5/11/2021.

5. On the other hand, the Ld. Departmental Representative vehemently opposed to the submissions of the Ld. AR and argued that

several opportunities had been provided to the assessee however, on the given dates of hearing, neither the assessee nor his Representative appeared / made submissions either before the Ld. AO or before the Ld. CIT (A)-NFAC. It was further submitted that the Ld. AO and the Ld. CIT (A)-NFAC had no other option but to pass ex-parte orders based on the materials available on record. Hence, it was pleaded that the orders passed by the Ld. AO and the Ld. CIT(A)-NFAC does not call for any interference.

6. We have heard both the parties and perused the material available on record as well as the orders of the Ld. Revenue Authorities. It is apparent from the orders of the Ld. AO as well as the Ld. CIT(A)-NFAC, the Ld. Revenue Authorities have passed the ex-parte orders. On going through the facts and circumstances as well the issues involved in the appeal, we are of the considered view that the Ld. Revenue Authorities instead of passing the ex-parte orders ought to have decided the case on merits by providing one more opportunity to the assessee in accordance with the principles of nature justice. It is also apparent from the order of the Ld. CIT(A)-NFAC that the assessee's case was dismissed by the First Appellate Authority in the absence of any evidence to substantiate the claim of the

assessee. Now, before us the Ld. AR submitted that if the assessee has been provided one more opportunity before the Ld. AO, the assessee can produce the documentary evidence to substantiate his claim. Considering the prayer of the assessee as well as the issues involved in the appeal of the assessee, we hereby remit the matter back to the file of the Ld. AO in order to provide one more opportunity to the assessee in accordance with the principles of natural justice. Accordingly, the Ld AO is hereby directed to decide the issues involved in the appeal denovo on merits after affording a reasonable opportunity to the assessee of being heard. It is ordered accordingly.

7. In the result, appeal of the assessee is allowed for statistical purposes as mentioned herein above.

Pronounced in the open Court on 29<sup>th</sup> November, 2023.

Sd/-

(एस बालाकृष्णन)

(S.BALAKRISHNAN)

**लेखा सदस्य/ACCOUNTANT MEMBER**

Sd/-

(दुव्वूरु आर.एल रेड्डी)

(DUVVURU RL REDDY)

**न्यायिकसदस्य/JUDICIAL MEMBER**

Dated :29/11/2023

OKK - SPS

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

1. निर्धारिती/ The Assessee– Smt. Koneru Vanaja Devi C/o. CA MV Prasad, D.No. 60-7-13, Ground Floor, Siddhartha Nagar, 4<sup>th</sup> Lane, Vijayawada, Andhra Pradesh – 520010.
2. राजस्व/The Revenue – The Income Tax Officer, Ward-2(4), Central Revenue Building, MG Road, Vijayawada, Andhra Pradesh – 520002.
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

