

आयकरअपीलीयअधिकरण, 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.243/Viz/2023
(निर्धारण वर्ष / Assessment Year : 2017-18)**

Gandreti Appanna
D.No.1-78, Mudavalasa
Denkada Mandal
Vizianagaram
[PAN : AYIPA0686L]

Vs. Income Tax Officer
Ward-2
Vizianagaram

(अपीलार्थी/ Appellant)

(प्रत्यर्थी/ Respondent)

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

: Smt.A.Aruna, AR
: Ms.Aparna Villuri, DR

सुनवाई की तारीख / Date of Hearing

: 28.12.2023

घोषणा की तारीख/Date of Pronouncement

: 29.12.2023

आदेश /ORDER

Per Shri Duvvuru RL Reddy, Judicial Member :

This appeal is filed by the assessee against the order of Commissioner of Income Tax (Appeals) [CIT(A)], National Faceless Appeal Centre (NFAC), Delhi in DIN & Order No.ITBA/NFAC/S/250/2023-24/1055021508(1) dated 10.08.2023, arising out of order passed u/s 144 of the Income Tax Act, 1961 (in short 'Act') dated 11.10.2019 for the Assessment Year (A.Y.) 2017-18.

3. Brief facts of the case are that the assessee is an individual, did not file his return of income for A.Y.2017-18. On the basis of data analytics and information gathered during the phase of online verification under 'Operation Clean Money', it was found that the assessee made cash deposits to the tune of Rs.11,72,000/- in his Bank Account No.146111100001060 maintained with Andhra Bank, Tagarapavalasa Branch in the F.Y.2016-17 during the demonetization period. The assessee was required to furnish the said return of income on or before 08.04.2018 as per provisions of section 142(1) of the Act, but the assessee failed to furnish return of income for A.Y.2017-18 either u/s 139 on or before 31.03.2018 or in response to the notice issued u/s 142(1) of the Act. The assessee was provided with several opportunities to file details explaining the source of cash deposited account with proper and necessary credible evidences. However, the assessee failed to file any submission / details and accordingly, the AO finalized the assessment proceedings by passing order u/s 144 of the Act on 11.10.2019 by making addition of Rs.11,72,000/- on account of unexplained cash deposit u/s 69A of the Act.

4. Aggrieved by the order of the AO, the assessee preferred an appeal before the CIT(A) and the Ld.CIT(A) upheld the order passed by the AO

and dismissed the appeal of the assessee ex-parte, holding that the assessee failed to remain vigilant and did not avail the opportunity to submit his point of view / contention as it failed to respond to various notices issued including the show cause notice to controvert the findings given by the AO.

5. 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 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) ought to have granted sufficient opportunity of hearing to the appellant.*
- 3. The learned Commissioner of Income Tax (Appeals) is not justified in sustaining the addition of Rs.11,72,000 made by the assessing officer u/s 69A of the Act towards alleged unexplained cash deposits during demonetization.*
- 4. Any other grounds may be urged at the time of hearing.*

6. The only contention of the Ld.AR is that the Ld.CIT(A) is not justified in dismissing the appeal of the assessee *ex-parte* and sustaining the addition of Rs.11,72,000/- made by the AO u/s 69A. The Ld.AR submitted that the Ld.CIT(A) ought to have granted sufficient opportunity of hearing before passing the order to establish his case with documentary evidences. He, therefore, pleaded me to remit the matter

back to the file of the CIT(A) and direct the Ld.CIT(A) to grant opportunity of being heard, keeping in view the principles of natural justice.

7. Per contra, the Ld.DR relied on the order of the Ld.CIT(A) and contended that the assessee was given sufficient opportunities, but the assessee did not avail the same. He, therefore, pleaded to uphold the order of the Ld.CIT(A) and dismiss the appeal of the assessee.

8. I have heard both the parties and perused the material available on record. It is undisputed fact that the appeal of the assessee was dismissed ex-parte before the Ld.CIT(A) due to non prosecution of the appeal by the assessee with cogent material evidences to controvert the findings of the AO. The contention of the Ld.AR is that the assessee is not given sufficient opportunity before the Ld.CIT(A) to present his appeal with cogent material evidences and to substantiate his case or else it would cause irreparable loss to the assessee. I find force in the arguments of the assessee and keeping in view the principles of natural justice, I am inclined to remit the matter back to the file of the Ld.CIT(A) and direct the Ld.CIT(A) to afford the assessee, another opportunity of being heard before the Ld.CIT(A). The assessee is also directed to adhere to the

notices issued by the Ld.CIT(A) and furnish relevant material evidences to substantiate his case. Accordingly, the grounds filed by the assessee are allowed for statistical purpose.

9. In the result, appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 29th December, 2023.

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

Dated : 29.12.2023
 L.Rama, SPS

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

1. निर्धारिती/ The Assessee- Shri Gandreti Appanna, D.No.1-78, Mudavalasa, Denkada Mandal, Vizianagaram
2. राजस्व/The Revenue - The Income Tax Officer, Income Tax Office, Ward-2, Koppu Guarana Building, Siddartha Nagar, Vizianagaram
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