

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

Gollamudi Venkateswara Rao
D.No.6-169
Deepaladinne Village
Panidem Post, Sattenapalli Mandal
Guntur
[PAN : AIPPG8383D]

Vs. Income Tax Officer
Ward-1(1)
Guntur

(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

: 01.01.2024

घोषणा की तारीख/Date of Pronouncement

: 10.01.2024

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 in DIN & Order No.ITBA/NFAC/S/250/2023-24/1055179160(1) dated 17.08.2023, arising out of order passed u/s 143(3) of the Income Tax Act, 1961 (in short 'Act') dated 01.12.2019 for the Assessment Year (A.Y.) 2017-18 with the delay

of 35 days. The assessee filed a petition for condonation of delay, submitting that he suffered from severe weakness during the first week of October, 2023. He was admitted in hospital on 05.10.2023 and was given treatment for severe anaemia and calcium deficiency problem. He was discharged on 15.11.2023. He furnished medical certificate as a proof and submitted that the he was not in a position to attend any other matters. As soon as he was discharged from the hospital, he took necessary steps and filed the appeal on 20.11.2023, resulting in a delay of 35 days. He, further submitted that the delay was on account of reasons beyond the control of the assessee, which was neither intentional nor deliberate. He, therefore, pleaded me to condone the delay and to pass appropriate orders in the interest of rendering substantial justice.

It is evident from the records that the order of the Ld.CIT(A) was passed on 17.08.2023. As such, the appeal against the order ought to have been filed on or before 16.10.2023, however, the assessee could file appeal only on 20.11.2023 with the delay of 35 days and filed condonation petition, citing medical reasons. I have gone through the condonation petition, medical certificate filed by the assessee and find that there is a reasonable cause for filing the appeal belatedly. Hence, I condone the delay and admit the appeal for hearing.

3. Brief facts of the case are that the assessee is an individual, deriving income from business and other sources had filed his return of income for the A.Y.2017-18, admitting net taxable income at Rs.5,32,290/-. The return was processed u/s 143(1) of the Act and subsequently the case was selected for limited scrutiny under CASS to examine the issue of “large cash payments made for credit card purchases”. Notices u/s 143(2) and 142(1) of the Act were issued and served on the assessee, calling for certain information. In response, the assessee could only furnish part of e-submissions/information, without furnishing the point wise information along with evidences as called for, from which the Assessing Officer(AO) noticed that the assessee had made substantial payments for credit card purchases to the tune of Rs.14,89,223/- in cash during the F.YH.2016-17 relevant to the A.Y.2017-18. However, the assessee could not explain the sources with relevant documentary evidences for such expenditure incurred for credit card purchases to the tune of Rs.14,89,223/-. The AO completed the assessment u/s 143(3) of the Act by making addition of Rs.14,89,220/- u/s 69C of the Act to the income returned, towards cash transactions made through the credit card for purchases in cash from unexplained sources for the year under consideration and assessed the total income at Rs.20,21,513/-.

4. Aggrieved by the order of the AO, the assessee preferred an appeal before the CIT(A) and the Ld.CIT(A) sustained the addition made by the AO and dismissed the appeal of the assessee *ex-parte* in the absence of any reasonable, cogent and valid arguments / contentions advanced by the assessee to counter the AO's decision as contained in the assessment order.

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 one more opportunity to the appellant before deciding the appeal ex-parte.

3. Without prejudice to the above, the learned Commissioner of Income Tax (Appeals) is not justified in sustaining the addition of Rs.14,89,223/- made by the assessing officer u/s 69C of the Act towards alleged unexplained payment of credit card dues.

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.14,89,223/- made by the AO u/s 69C of the Act. 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 afford one more opportunity of being heard before the Ld.CIT(A), 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 was not given sufficient opportunity before the Ld.CIT(A) to present his appeal with cogent material evidences and to substantiate his case. He, therefore, pleaded me to remit the matter back to the file of the Ld.CIT(A) to afford another of opportunity of being heard before the Ld.CIT(A) or else it would cause irreparable loss to the assessee. In view of the foregoing facts and circumstances of the case and keeping in view the principles of natural justice, I am inclined to remit the matter back to the

file of the 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 10th January, 2024.

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

Dated : 10.01.2024
L.Rama, SPS

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

1. निर्धारिती/ The Assessee- Shri Gollamudi Venkateswara Rao, D.No.6-169 Deepaladinne Village, Panidem Post, Sattenapalli Mandal, Guntur
2. राजस्व/The Revenue - The Income Tax Officer, Income Tax Office, Ward-1(1), CR Buildings, Kannavari Thota, Guntur
3. The Principal Commissioner of Income Tax, Guntur
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापटणम / DR,ITAT, Visakhapatnam
- 5..गार्ड फ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam