

आयकर अपीलीयअधिकरण, विशाखापटणम SMC पीठ, विशाखापटणम

IN THE INCOME TAX APPELLATE TRIBUNAL,
VISAKHAPATNAM 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.41/Viz/2023

(निर्धारण वर्ष / Assessment Year : 2014-15)

Kattula Venkateswara Rao,
Guntur.

PAN: ABDPK 2476 L

(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. Income Tax Officer,
Ward-2(1),
Guntur.

(प्रत्यर्थी/ Respondent)

Sri GVN Hari, AR

Dr. Aparna Villuri, Sr. AR

23/01/2024

30/01/2024

ORDER

PER DUVVURU RL REDDY, Judicial Member :

This appeal is filed by the assessee against the order of the Ld. CIT(A)-NFAC, Delhi in DIN & Order No. ITBA/NFAC/S/250/2022-23/1048019187(1), dated 15/12/2022 arising out of the order passed U/s. 143(3) of the Income Tax Act, 1961 [the Act] for the AY 2014-15.

2. Briefly stated the facts of the case are that the assessee is an individual, e-filed his return of income for the AY 2014-15 on 4/7/2014 declaring total income of Rs. 6,60,230/-. The return was processed U/s. 143(1) of the Act. Subsequently, the case was selected for scrutiny under CASS and notice U/s. 143(2) was issued on 28/8/2015 and served on the assessee. Due to change of incumbent as the case was transferred from the ITO, Ward-4, Panvel, a notice U/s. 143(2) was issued on 24/09/2015. Further, notice U/s. 142(1) was also issued to the assessee on 27/06/2016 along with a questionnaire. As there was no response from the assessee, notice U/s. 274 r.w.s 271(1)(b) of the Act was issued to the assessee along with notice U/s. 142(1) on 12/08/2016. Considering the assessee's no response, the Ld. AO before proceeding to complete the assessment ex-parte, a final opportunity was given to the assessee by issuing notice U/s. 142(1) of the Act and in response, the assessee's Representative appeared and furnished the information as called for in the questionnaire. As per the information submitted by the assessee's Representative as well as the information available on record, the Ld. AO noted that the assessee, being a salaried person and having declared the income from salary of Rs. 7,64,143/-, made huge cash deposits in his saving bank

accounts aggregating to Rs.21,51,500/-. On being asked, the assessee submitted his explanation before the Ld. AO by stating that on sale of flats the assessee received Rs. 9,71,000/- however, the assessee could substantiate his claim for cash deposits and produce any documentary evidence to the extent of Rs. 11,50,500/-. In the absence of any cogent evidence in support of the assessee's claim, the Ld. AO made an addition of Rs. 11,50,500/- towards income from undisclosed sources and determined the total income of Rs.18,10,230/- [income as per return – Rs. 6,60,230 + undisclosed income of Rs. 11,50,500]. 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 assessee's appeal by holding that even before First Appellate Authority, the assessee has not filed any evidence in respect of the addition made by the Ld. AO except statements in his written submissions. Aggrieved by the order of the Ld. CIT(A)-NFAC, the assessee is in further appeal before the Tribunal by raising the following grounds of appeal:

- "1. The order of the Ld. CIT(A) is contrary to the facts and also the law applicable to the facts of the case.*
- 2. The Ld. CIT(A) is not justified in sustaining the addition of Rs. 11,50,500/- made by the AO towards unexplained cash deposits in bank account.*

3. *Any other grounds may be urged at the time of hearing."*

3. At the outset, the Ld. Authorized Representative submitted additional evidence before me to state that the alleged amount of Rs.11,50,500/- was received by the assessee from his family members to meet the domestic expenses / children education as well as gifts received on various occasions from the family members. The Ld. AR further also submitted that the donors of the gifts are having agricultural lands and therefore the source of the source is also explained and substantiated by producing their Adangal copies of land holdings along with the confirmation letters drawn in favour of the assessee to state that the amounts were given to the assessee. Therefore, the Ld. AR pleaded that since the assessee has produced the documentary evidence to substantiate the cash deposits made during the year, the addition made by the Ld. AO and confirmed by the Ld. CIT(A)-NFAC may be deleted.

4. On the other hand, Ld. Departmental Representative heavily relied on the orders of the Ld. Revenue Authorities and argued in support of the same.

5. I have heard both the sides and perused the material available on record as well as the orders of the Ld. Revenue Authorities. It is a fact that assessee made cash deposits in his bank accounts during the year aggregating to Rs. 21,51,500/-. During the assessment proceedings, the assessee could not satisfactorily explain the source for cash deposits to the tune of Rs. 11,50,500/- out of Rs. 21,51,500/- and therefore, the Ld. AO made an addition of Rs. 11,50,500/- as income from undisclosed sources. Even before the Ld. CIT(A)-NFAC, the assessee failed to furnish the documentary evidence with respect to the alleged cash deposits to the extent of Rs.11,50,500/-. Before the Tribunal, in the form of additional evidence the assessee produced the confirmation letters from the family members who advanced the cash to the assessee during various occasions along with their bank account statements, copies of Pahanis to demonstrate the land holdings. On perusal of these documents and evidences, I find that the assessee has received gifts from the family members only to the extent of Rs.7 lakhs based on the confirmation letters and bank accounts submitted by way of additional evidence. Therefore, in my opinion the assessee has established the source only to the extent of Rs. 7 lakhs out of the disputed amount of Rs. 11,50,500/-. For the remaining amount

of Rs. 4,50,500/- [Rs. 11,50,500 – Rs. 7,00,000] the assessee could not produced any cogent documentary evidence to state that this amount is also received from the family members as gifts. Therefore, based on the above facts and circumstances of the assessee, I hereby grant relief to the assessee to the extent of Rs. 7 lakhs based on the satisfactory evidence produced before me and confirm the balance amount of Rs. 4,50,500/- as income in the hands of the assessee from unexplained sources. It is ordered accordingly.

6. In the result, appeal of the assessee is partly allowed as indicated herein above.

Pronounced in the open Court on 30th January, 2024.

Sd/-

(दुव्वूरु आर. एल रेड्डी)

(DUVVURU RL REDDY)

न्यायिकसदस्य/JUDICIAL MEMBER

Dated : 30/01/2024
OKK - SPS

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

1. निर्धारिती/ The Assessee – Kattula Venkateswara Rao, Flat No. 101, Sri Vallabha Grand Apartment, 4/2, SVN Colony, Guntur, Andhra Pradesh – 522006.

2. राजस्व/The Revenue – Income Tax Officer, Ward-2(1), O/o. ITO, Lakshmipuram Main Road, Guntur, Andhra Pradesh – 522007.
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