

**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.28/Viz/2024  
(निर्धारण वर्ष / Assessment Year : 2017-18)**

Srinivasa Rao Inuganti  
Sy.No.537/5, S.V.S.Nager  
Mylavaram  
NTR District  
**[PAN : ABDPI5709C]**

Vs. Income Tax Officer  
Ward-3(1)  
Vijayawada

**(अपीलार्थी/ Appellant)**

**(प्रत्यर्थी/ Respondent)**

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

: Shri Siva Ram Kumar, AR  
: Dr.Aparna Villuri, DR

सुनवाई की तारीख / Date of Hearing

: 05.03.2024

घोषणा की तारीख/Date of Pronouncement

: 14.03.2024

**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/250/2023-24/105879547(1) dated 15.12.2023, arising out of order passed u/s 143(3) of the Income Tax Act, 1961 (in short 'Act') dated 15.12.2023 for the Assessment Year (A.Y.) 2017-18.

2. Brief facts of the case are that the assessee, an individual, carrying business of retail sale of automotive fuel (petrol and diesel) under trade name of “Manikanta Fuel Point” (IOCL Petrol Bunk), filed his return of income on 03.10.2017 declaring a total income of Rs.4,70,500/-. The same was selected for scrutiny to verify “Abnormal increase in cash deposits during demonetization period as compared to pre-demonetization period”. Accordingly notice u/s 143(2) and 142(1) of the Act were issued calling for information. In response, the assessee has submitted the information called for. After verification of the information submitted, the Assessing Officer (AO) disallowed 50% of the expenditure and added back to the income returned u/s 57 of the Act. Further, the AO observed that the assessee received Rs.25,00,000/- from Kotagiri Krishna Kanth during the F.Y.2016-17. The assessee was issued show cause notice dated 26.12.2019 to explain about the nature of transactions made with Kotagiri Krishna Kanth. But, since the assessee failed to explain about the nature of receipt, the AO treated the same as unexplained money u/s 69A of the Act and initiated penal provisions u/s 271AAC of the Act. Further, the AO observed that the assessee received a total amount of Rs.48,710/- as incentive, but has not admitted the same in his ITR for A.Y.2017-18, accordingly, the same was added to the returned

income. The AO completed the assessment and passed assessment order u/s 143(3) of the Act dated 31.12.2019 assessing the total income of the assessee at Rs.31,10,290/-.

3. Aggrieved by the order of the AO, the assessee preferred an appeal before the CIT(A). The Ld.CIT(A) upheld the order passed by the AO and dismissed the appeal of the assessee ex-parte due to non prosecution of the appeal.

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. In the facts and circumstances of case, learned CIT(Appeals) ought to have considered the facts of the case and the Grounds of Appeal before dismissal ex parte.*

*2. The appellant's appeal against before NFAC was filed by a Chartered Accountant (Mr.Gabbita Satya Narayana, CA, Vijayawada) and the communications in that respect had been made to and by the AR. But, the said AR passed away on 23.02.2023 in Australia, a few months after he went there in December, 2022 and hence the hearing notices sent by NFAC to his e-mail address were not served and remained unanswered; the appellant prays for reconsideration of his appeal by the first appellate authority in view of the aforesaid exceptional circumstances.*

*3. The appellant craves leave to add or amend any Ground of Appeal.*

5. At the outset, the Ld.AR submitted that the assessee's appeal against the order of Ld.CIT(A)/NFAC was filed by a Chartered Accountant

/ AR (Mr.Gabbita Satya Narayana, CA, Vijayawada) and the communications in that respect had been made to and by the AR. But, the said AR passed away on 23.02.2023 in Australia, a few months after he went there in December, 2022 and hence the hearing notices sent by NFAC to his e-mail address were not served and remained unanswered. The Ld.AR therefore, submitted that the reason for non-compliance to the notices issued by the department was solely because the hearing notices sent by NFAC to the email address of the said AR were not served. The Ld. AR therefore pleaded for reconsideration of his appeal and afford an opportunity of being heard before the Ld.CIT(A) in view of the aforesaid exceptional circumstances.

6. Per contra, the Ld.DR relied on the order of the Ld.CIT(A). She pleaded to uphold the order passed by the Ld.DR and dismiss the appeal of the assessee.

7. I have heard both the parties and perused the material placed on record. It is an undisputed fact that during the course of appellate proceedings, the Ld.AR of the assessee expired on 23.02.2023 in Australia and the assessee was neither aware of the notices sent to the email address of the deceased AR nor the order passed by the Ld.CIT(A) on

22.09.2023. The assessee submitted a copy of death certificate of the Ld.AR issued at Australia and pleaded for reconsideration of the appeal by granting one more opportunity of being heard before the Ld.CIT(A). In view of the aforesaid 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 Ld.CIT(A) with a direction to afford another opportunity of being heard to the assessee. The assessee is also directed to adhere to the notices issued and served by the revenue authorities and produce supporting documentary evidence to substantiate his claim. Accordingly, the grounds raised by the assessee are allowed for statistical purpose.

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

Order pronounced in the open court on 14<sup>th</sup> March, 2024.

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

Dated : 14.03.2024  
*L.Rama, SPS*

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

1. निर्धारिती/ The Assessee - Srinivasa Rao Inuganti, Sy.No.537/5,  
S.V.S.Nager, Mylavaram, NTR District
2. राजस्व/The Revenue – The Income Tax Officer, Ward-3(1), CR  
Buildings, Vijayawada
3. The Principal Commissioner of Income Tax, Vijayawada
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापटणम / DR,ITAT, Visakhapatnam
- 5..गार्ड फ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary  
ITAT, Visakhapatnam