

**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  
**(Through Hybrid Hearing)**

आयकर अपील सं./ I.T.A. No. 22/Viz/2024  
(निर्धारण वर्ष / Assessment Year: 2017-18)

Kompella Rama Subrahmanya  
Sarma,  
Kakinada.

PAN: BQZPK 4682 G

(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,  
Kakinada.

(प्रत्यर्थी/ Respondent)

Sri GVN Hari, AR

Dr. Aparna Villuri, Sr. AR

04/03/2024

14/03/2024

**ORDER**

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

This appeal filed by the assessee is against the order of the  
Ld. CIT(A)-NFAC, Delhi in DIN & Order No.  
ITBA/NFAC/S/250/2023-24/1058804262(1), dated 15/12/2023

arising out of the orders passed U/s. 144 of the Income Tax Act, 1961 [the Act] for the AY 2017-18.

2. Briefly stated the facts of the case are that the assessee is an individual filed his return of income for the AY 2017-18 admitting an income of Rs. 4,38,360/- on 30/03/2018. The case has been selected for scrutiny to verify “cash deposits during the demonetization period” under CASS and accordingly notices U/s. 143(2) and 142(1) of the Act were issued from time to time calling for information in respect of the sources for cash deposits made during the financial year 2016-17. Since there was no reply from the assessee, the Ld. AO issued a show cause notice on 16/11/2019 requesting the assessee to explain the sources for cash deposits by way of affixture on 20/11/2019. The Ld. AO also mentioned in the said show cause notice that if the assessee failed to furnish the information as called for, the assessment would be finalized based on the information available on record. Thereafter, the Ld. AO caused enquiries by the Income Tax Inspector and came to know that the assessee has vacated his residential premises. Further, the Ld. AO also obtained information from the SBI, Venkat Nagar Branch, Kakinada U/s. 133(6) of the Act where the assessee maintains his account and

wherein the alleged cash deposits were made and observed that the assessee made cash deposits to the tune of Rs. 15,26,000/- during the demonetization period. Considering the fact that the assessee did not respond either to the statutory notices or to the show cause notice issued to the assessee as well as based on the information gathered by the Inspector with regard to the cash deposits made by the assessee during the demonetization period, the Ld. AO proceed to complete the assessment *ex-parte* U/s. 144 of the Act based on merits of the case and also the material available on record. Accordingly, the Ld. AO treated the cash deposits made by the assessee during the demonetization period of Rs. 15,26,000/- as unexplained money U/s. 69A r.w.s 115BBE of the Act and determined the total income at Rs. 19,64,360/- in the assessment order passed on 30/11/2019. Aggrieved by the order of the Ld. AO, the assessee filed an appeal belatedly before the Ld. CIT(A) with a delay of 84 days.

3. Before the Ld. CIT(A)-NFAC the assessee explained the reasons for not filing the appeal within the stipulated time and submitted that due to ill health, the appeal could not be filed within the time. In support of his claim, the assessee also produced the medical certificate before the Ld. CIT(A)-NFAC.

However, the Ld. CIT(A)-NFAC did not condone the delay by holding that the reasons advanced by the assessee are not sufficient or good reason for condoning the inordinate delay of 84 days. The Ld. CIT(A)-NFAC relied on various decisions while denying the assessee's explanations for condonation of delay. Thus, the Ld. CIT(A)-NFAC dismissed the appeal of the assessee as in-limine. Aggrieved by the order of the Ld. CIT(A)-NFAC, the assessee is in 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 not condoning the delay of 84 days in filing the appeal and in dismissing the appeal in-limine.*

*3. The Ld. CIT(A) ought to have held that the Assessing Officer is not justified in making addition of Rs. 15,26,000/- U/s. 69A of the act towards unexplained cash deposits.*

*4. Any other grounds that may be urged at the time of hearing.”*

4. At the outset, the Ld. Authorized Representative [AR] submitted that the Ld. CIT(A)-NFAC ought to have considered the explanation of the assessee with respect to the condonation of delay in filing the appeal before the Ld. CIT(A)-NFAC as the assessee was prevented by a reasonable and sufficient cause i.e., ill health of the assessee. The Ld. AR further submitted that in

support of the reasons advanced by the assessee for filing of the appeal beyond the prescribed time limit before the Ld. CIT(A)-NFAC, the assessee has also produced the Medical Certificate evidencing the treatment taken by the assessee. The Ld. AR further submitted that the delay in filing the appeal is not on account of negligence or any deliberate act of the assessee. Ld. AR also submitted that without considering the explanation and the submissions of the assessee, the Ld. CIT(A)-NFAC dismissed the appeal of the assessee by denying the condonation petition filed before him. The Ld. AR also submitted that the case laws relied on by the Ld. CIT(A)-NFAC are not applicable to the case of the assessee as the assessee is not negligent / deliberate but prevented by a reasonable and sufficient cause while filing the belated appeal before the Ld. CIT(A)-NFAC. The Ld. AR therefore pleaded that the matter may be remitted back to the file of the Ld. CIT(A)-NFAC to decide the appeal on merits.

5. On the other hand, the Ld. Departmental Representative [DR] heavily relied on the orders of the Ld. Revenue Authorities. The Ld. DR further submitted that while passing the ex-parte order the Ld. AO has given sufficient opportunities to the assessee and also cause enquiries by the Inspector to find out

the sources of cash deposits made by the assessee during the demonetization period. Therefore, the Ld. AO is right in his action in making the addition of Rs. 15,26,000/- as unexplained money U/s. 69A r.w.s 115BBE of the Act. The Ld. DR further submitted that before the Ld. CIT(A)-NFAC even though there is a delay, the onus is on the assessee to explain every day's delay with proper evidence. The Ld. DR also submitted that since the assessee has not discharged his onus, the Ld. CIT(A)-NFAC has rightly dismissed the appeal of the assessee as inadmissible. In toto, the Ld. DR supported the decision of the Ld. Revenue Authorities and pleaded to upheld the decision of the Ld. AO.

6. 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 on being aggrieved by the addition made by the Ld. AO, the assessee preferred an appeal before the Ld. CIT(A)-NFAC with a delay of 84 days. It is also a fact that with respect to the belated filing of the appeal, the assessee has explained his reasons by stating that due to ill health suffered by the assessee the appeal could not be filed within the stipulated time before the Ld. CIT(A)-NFAC. Further, in support of the reasons advanced by the assessee, the assessee has also

produced the Medical Certificate before the Ld. CIT(A)-NFAC and the same is extracted by the Ld. CIT(A)-NFAC in his order. In my considered opinion, the Ld. CIT(A)-NFAC ought to have considered the explanation given by the assessee for belated filing the appeal and ought to have disposed of the appeal on merits. Instead, the Ld. CIT(A)-NFAC dismissed the appeal in-limine. The Bench cannot appreciate the decision of the Ld. CIT(A)-NFAC while dismissing the appeal of the assessee. Therefore, considering the facts and circumstances of the case and the reasons advanced by the Ld. AR as to why the assessee could not file the appeal within the stipulated time before the Ld. CIT(A)-NFAC and also on careful perusal of the documentary evidence ie., Medical Certificate submitted by the assessee before the Ld. CIT(A)-NFAC, I have no hesitation to set-aside the order passed by the Ld. CIT(A)-NFAC and thereby remit the matter to the file of the Ld. CIT(A)-NFAC with a direction to dispose of the appeal on merits. Further, I also hereby caution the assessee to cooperate before the Ld. CIT(A)-NFAC in their proceedings, otherwise Ld. Revenue Authorities are at liberty to pass orders in accordance with law based on the material available on record. It is ordered accordingly.

7. In the result, appeal filed by the assessee is allowed.

Pronounced in the open Court on 14<sup>th</sup> March, 2024

Sd/-

(दुव्वूरु आर.एल रेड्डी)

(DUVVURU RL REDDY)

न्यायिकसदस्य/JUDICIAL MEMBER

Dated :14/03/2024

OKK - SPS

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

1. निर्धारिती/ The Assessee – Kompella Rama Subrahmanya Sarma, D.No. 20-6/2-4/1, Kosurivari Street, Kakinada, East Godavari District, Andhra Pradesh – 533001.
2. राजस्व/The Revenue – Income Tax Officer, Ward-2, O/o. ITO, Deepthi Towers, Main Road, Kakinada, Andhra Pradesh – 533001.
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