

आयकरअपीलीयअधिकरण, विशाखापटणमपीठ, विशाखापटणम

IN THE INCOME TAX APPELLATE TRIBUNAL,
VISAKHAPATNAM BENCH, VISAKHAPATNAM

श्रीदुव्वूरुआरएलरेड्डी, न्यायिकसदस्यएवंश्रीएसबालाकृष्णन, लेखासदस्यकेसमक्ष

BEFORE SHRI DUVVURU RL REDDY, HON'BLE JUDICIAL MEMBER &
SHRI S BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER

आयकरअपीलसं./ I.T.A. No.288/Viz/2023

(निर्धारणवर्ष/ Assessment Year :2016-17)

Andhavarapu Srinivasa Rao,
Srikakulam.
PAN: AFSPA 1908 C

Vs. The Joint Commissioner of
Income Tax,
Range-4,
Visakhapatnam.

(अपीलार्थी/ Appellant)

(प्रत्यर्थी/ Respondent)

अपीलार्थीकीओरसे/ Assessee by

: Sri GVN Hari, AR

प्रत्यर्थीकीओरसे/ Revenue by

: Dr. Aparna Villuri, Sr. AR

सुनवाईकीतारीख/ Date of Hearing

: 19/03/2024

घोषणाकीतारीख/Date of

: 21/03/2024

Pronouncement

ORDER

PER S. BALAKRISHNAN, Accountant Member :

This appeal filed by the assessee is directed against the order of the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [Ld. CIT(A)-NFAC] in DIN & Order No. ITBA/NFAC/S/250/2023-24/1057075759(1), dated

16/10/2023 arising out of the order passed U/s. 271D of the Income Tax Act, 1961 [the Act] for the AY 2016-17.

2. Briefly stated the facts of the case are that the assessee, an individual, sold some immovable properties during the FY 2015-16 relevant to the AY 2016-17 and the sale consideration was received partly by way of cash in excess of Rs. 20,000/-. Therefore, the Ld. AO opined that since the assessee received cash in excess of Rs. 20,000/-, the provisions of section 269SS of the Act are applicable to the said transactions of the assessee. Accordingly, the Ld. AO asked the assessee as to why the penalty U/s. 271D of the Act should not be levied. In response, the assessee replied that the assessee did not receive any part of the sale consideration as advance in cash and whatever the cash received was only at the time of registration of transfer of immovable property which form part of the sale consideration and therefore the provisions of section 269SS are not applicable to the case of the assessee. However, the Ld. AO did not agree with the submissions and the explanation given by the assessee and accordingly levied the penalty of Rs. 75,68,000/- U/s. 271D of the Act vide order dated 20/08/2019. Aggrieved by the order of the Ld. AO, the assessee preferred an appeal before the Ld.

CIT(A)-NFAC. On appeal, after considering the submission of the assessee, the Ld. CIT(A)-NFAC sustained the decision of the Ld.AO while levying the penalty U/s. 271D of the Act and dismissed the appeal of the assessee. Aggrieved by the order of the Ld. CIT(A)-NFAC, the assessee is in appeal before us. Before the Tribunal, the assessee filed original grounds of appeal and later revised the grounds of appeal as follows:

- “1. The penalty order passed U/s. 271D of the Act on 20/08/2019 is barred by limitation.*
- 2. The penalty order passed U/s. 271D is invalid in the absence of any satisfaction recorded in the assessment order.”*

3. At the outset, the Ld. AR submitted that the above Revised Grounds of appeal filed before the Tribunal was not raised before the Ld. CIT(A)-NFAC and therefore he pleaded that in order to provide one more opportunity of being heard to the assessee, the matter may be remitted back to the file of the Ld. CIT(A)-NFAC to adjudicate the appeal.

4. Per contra, the Ld. DR relied on the orders of the Ld. Revenue Authorities and did not object to the submission of the Ld. AR.

5. We have heard both the sides and perused the material available on record as well as the orders of the Ld. Revenue Authorities. On perusal of the order of the Ld. CIT(A)-NFAC, we find that as submitted by the Ld. AR the Revised Grounds of Appeal filed before us was not raised before the First Appellate Authority. Therefore, considering the submission of the Ld. AR, we hereby remit the matter back to the file of the Ld. CIT(A)-NFAC in order to provide one more opportunity to the assessee following the principles of natural justice. It is ordered accordingly.

6. In the result, appeal filed by the assessee is allowed for statistical purposes.

Pronounced in the open Court on 21st March, 2024.

Sd/-

(दुव्वूरुआर.एलरेड्डी)
(DUVVURU RL REDDY)

न्यायिकसदस्य/JUDICIAL MEMBER

Sd/-

(एसबालाकृष्णन)
(S.BALAKRISHNAN)

लेखासदस्य/ACCOUNTANT MEMBER

Dated : 21.03.2024

OKK - SPS

आदेशकीप्रतिलिपिअग्रेषित/Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee–Andhavarapu Srinivasa Rao, Sarada Hightech City, Vuda Layout, Opp. Coco Cola Godown, Gujarathipeta, Srikakulam, Andhra Pradesh – 532005.
2. राजस्व/The Revenue –Joint Commissioner of Income Tax, Range-4, O/o. ITO, Direct Taxes Building, MVP Colony, Visakhapatnam, Andhra Pradesh-530017.
3. The Principal Commissioner of Income Tax,
4. आयकरआयुक्त (अपील)/ The Commissioner of Income Tax
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, विशाखापटणम/ DR,ITAT, Visakhapatnam
6. गार्डफ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam