

आयकर अपीलीय अधिकरण, 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.297/Viz/2023

(निर्धारण वर्ष / Assessment Year : 2017-18)

Ganni Satyavani,
Kurellagudem.
PAN: BUKPG 4038 H

(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. The Income Tax Officer,
Ward-2,
Eluru.

(प्रत्यर्थी/ Respondent)

Sri GVN Hari, AR

Dr. Aparna Villuri, Sr. AR

19/03/2024

22/03/2024

ORDER

PER DUVVURU RL REDDY, Judicial Member :

This appeal filed by the assessee is 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/250/2023-24/1056723945(1), dated 3/10/2023 arising out of the order 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, an individual, has not filed the return of income for the AY 2017-18

either U/s 139 of the Act (on or before 31/3/2018) or in response to the notice U/s. 142(1) of the Act. Based on the information available with the Department, the Ld. AO observed that the assessee made cash deposit of Rs. 12,44,000/- in the assessee's Andhra Bank account during the demonetization period. In this regard, the Ld. AO, issued show cause notices to the assessee and called for information and explanation of the assessee with regard to source of cash deposits but the assessee did not respond to the notices. Considering the assessee's non-compliance to the notices and the assessee's failure to give any explanation about the nature and source of cash deposits, the Ld. AO completed the assessment U/s. 144 of the Act and thereby made an addition of Rs. 23,13,022/- [Rs. 12,44,000/- as cash deposits and Rs. 10,69,022/- on account of credit entries appearing in the assessee's bank accounts] as unexplained money U/s. 69A of the Act and determined the total income at Rs. 23,13,022/- vide order dated 20/11/2019 of the Act. On being aggrieved, assessee preferred an appeal before the Ld. CIT(A)-NFAC.

3. On appeal, before the Ld. CIT(A)-NFAC the assessee submitted that the source of income is out of the sale of oil palm and deposits are out of agricultural income. However, the Ld.

CIT(A)-NFAC observed that the assessee has not filed any books of account and other details in support of its contention and therefore, the Ld. CIT(A)-NFAC dismissed the appeal of the assessee for want of evidence and sustained the addition made by the Ld. AO. 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 sustaining the addition of Rs. 23,13,022/- made by the Ld. AO U/s. 69A of the Act towards alleged unexplained deposits on the bank account.*
3. *Any other grounds may be urged at the time of hearing.”*

4. At the outset, the contention of the Ld. AR is that the assessee sold a property and received the sale consideration by way of installments and thereafter executed the registered sale deed on 21/11/2016 and after receipt of the final payment on 23/11/2016 the assessee deposited an amount of Rs. 12,44,000/-. But the Ld. AO and the Ld. CIT(A)-NFAC have not considered the contention of the assessee and made the addition. So far as the second issue is concerned, it was the submission of the Ld. AR that the Ld. AO noticed an amount of Rs. 10,69,022/- as credit entries appearing in the assessee's bank accounts. In this regard, the assessee has

given an explanation to the Ld. Revenue Authorities that the assessee has received sale proceeds of agricultural produce viz., sale of oil pam amounting to Rs. 7,56,629/- on two occasions by way of RTGS from M/s. Godrej Agrovat Limited and the balance credits are received from the other sundry creditors and therefore the Ld. AR pleaded to set-aside the orders of the Ld. Revenue Authorities.

5. On the other hand, the Ld. DR heavily relied on the orders of the Ld. Revenue Authorities and submitted that the assessee has not submitted any evidence before the Ld. AO and even before the Ld. CIT (A)-NFAC also the assessee has not produced the sale deed etc. Therefore, the Ld. DR pleaded to uphold the orders passed by the Ld. Revenue Authorities.

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 21/11/2016 a sale deed was executed by the assessee for an amount of Rs. 24,56,000/-. One of the recitals of the sale deed is that the assessee received the same amount by way of installments and also within a span of two days the assessee has deposited the sale consideration to the extent of Rs. 12,44,000/- since the assessee has received a part of sale

consideration just three days before the execution of the sale deed. On this aspect, the only contention of the Ld. DR is that before the Ld. Revenue Authorities the assessee has not produced the sale deed etc. The assessee has filed the acknowledgement which shows that the assessee has filed all the details like sale deed, bank statements etc., and it is a registered sale deed. Therefore, considering the facts and circumstances of the case, I am of the view that the assessee has properly explained the source for deposit of Rs. 12,44,000/-.

7. In so far as the credit entries appearing in the bank account of the assessee is concerned, the contention of the assessee is that through RTGS, the assessee has received an amount of Rs. 7,56,629/- on two occasions on sale of Oil Palm from M/s. Godrej Agrovet Limited. It is not in dispute that the assessee is also an agriculturist and the assessee is having the Oil Palms. Therefore, in my opinion the assessee has explained the source for the credits in bank account of the assessee for an amount of Rs. 7,56,629/- out of Rs. 10,69,022/-. In so far as the balance amount of Rs. 3,12,393/- [Rs. 10,69,022 - Rs. 7,56,629] is concerned the assessee has not produced any documentary evidence to show that this amount was received from the sundry creditors nor produced

any details of the sundry creditors. Therefore, I am of the view that the assessee has not given proper source for the credit entries and accordingly I hereby sustain the addition to the extent of Rs. 3,12,393/-. It is ordered accordingly.

8. In the result, appeal of the assessee is partly allowed.

Pronounced in the open Court on 22nd March, 2024.

Sd/-

(दुव्वूरु आर.एल रेड्डी)

(DUVVURU RL REDDY)

न्यायिकसदस्य/JUDICIAL MEMBER

Dated :22/03/2024

OKK - SPS

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

1. निर्धारिती/ The Assessee – Ganni Satyavani, D.No. 3-148, Near Hanuman Temple, Kurellagudem Village, Kurellagudem, Andhra Pradesh – 534401.
2. राजस्व/The Revenue – The Income Tax Officer, Ward-2, O/o. ITO, D.No.23-B-4-6/4, K K S Towers, RR Pet, Eluru, Andhra Pradesh – 534002.
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, Visakhapatna