

आयकरअपीलीयअधिकरण, विशाखापटणम पीठ, विशाखापटणम

**IN THE INCOME TAX APPELLATE TRIBUNAL,
VISA KHAPATNAM BENCH, VISA KHAPATNAM**

**श्री दुव्वूरु आर एल रेड्डी, न्यायिक सदस्य एवं श्री एस बालाकृष्णन, लेखा सदस्य के समक्ष
BEFORE SHRI DUVVURU RL REDDY, HON'BLE JUDICIAL MEMBER &
SHRI S BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER**

**आयकर अपील सं./I.T.A.No.274/Viz/2023
(निर्धारण वर्ष / Assessment Year : 2013-14)**

Venkata Nanda Kishore Ganta
D.No.5-1, Near Satram
Pydiparru Post
Tanuku, West Godavari
[PAN : ANBPG4942R]
(अपीलार्थी/ Appellant)

Vs. Income Tax Officer
Ward-1
Tanuku

(प्रत्यर्थी/ Respondent)

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

: Shri G.V.N.Hari, AR
: Dr.Aparna Villuri, DR

सुनवाई की तारीख / Date of Hearing

: 15.02.2024

घोषणा की तारीख/Date of Pronouncement

: 28.03.2024

आदेश / O R D E R

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/250/2023-24/1055728255(1) dated 04.09.2023, arising out of order passed u/s 147 r.w.s.144 of the Income Tax Act, 1961 (in short 'Act') dated 04.09.2023 for the Assessment Year (A.Y.) 2013-14.

2. Brief facts of the case are that the assessee an individual is working as an employee of M/s V Soma Sundaram Auto Mobiles, dealers in motor cycle etc. at Tanuku. The firm has collected cash from customers as a service to them towards life tax payable. The assessee deposited such collections in the HDFC Bank A/c No.07411930002153, Tanuku and transferred the amounts online through e-seva Kendra to Road Transport Authorities of A.P.State Government. The assessee did not file return of income for the A.Y.2013-14. The Department was in possession of information that the assessee had made cash deposits of Rs.2,06,08,720/- during the F.Y.2012-13 relevant to the A.Y.2013-14. Since the assessee did not file his return of income, the case of the assessee was reopened by issuing notice u/s 148 of the Act. Further, several notices u/s 142(1) of the Act were issued and served on the assessee. In reply, the assessee submitted that as instructed by the firm the cash collected was deposited in the HDFC account and most of all the debits entries in the said bank account have been related to the transfer of amounts online through e-seva Kendra to the Road Transport Authorities of A.P.State Government only. The assessee was asked to furnish any undertaking / affidavit or any sort of evidences which suggest that the cash deposits was done by him on behalf of the employer M/s V.Soma Sundaram Auto Mobiles.

However, since the assessee failed to file any response, the AO proceeded with the assessment u/s 147 r.w.s. 148 of the Act on the basis of the facts and material available on record. The AO observed that the assessee declared total income of Rs.1,22,860/-, however, since the same was not in commensurate with the total cash deposits of Rs.2,06,08,720/- made in his bank account, the AO held that the cash deposits of Rs.2,06,08,720/- made in the HDFC bank a/c as deemed income of the assessee u/s 69A of the Act and accordingly assessed the income at Rs.2,07,31,580/- after making addition of Rs.2,06,08,720/- to the income returned for the year under consideration.

3. Aggrieved by the order of the AO, the assessee preferred an appeal before the CIT(A) and the Ld.CIT(A) partly allowed the appeal of the assessee, directing the AO to verify the aggregate cash deposits made by the assessee in the HDFC bank savings account for the year under consideration and after verification, whatsoever amount is worked out, compute the income of the assessee @8% of the total cash deposits and restrict the addition to that amount accordingly, while giving effect to the order of the Ld.CIT(A) in the absence of any documentary evidences which suggest that the said cash deposits were belonged to the employer and the same were accounted for into its account.

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. *The order of the learned Commissioner of Income Tax (Appeals) is contrary to the facts and also the law applicable to the facts of the case.*
2. *The learned Commissioner of Income Tax (Appeals) ought to have quashed the assessment which was completed without issue of notice u/s 143(2) of the Act.*
3. *Without prejudice to the above, the learned Commissioner of Income Tax (Appeals) is not justified in estimating the income of the appellant @8% of the cash deposits of Rs.2,06,08,720 and partly sustaining the addition to the extent of Rs.13,52,792/-.*
4. *The learned Commissioner of Income Tax (Appeals) ought to have appreciated that the cash deposits were received from the customers of employer for onward payment of Road Tax and other statutory payments for the vehicles purchased by the customers.*
5. *Without prejudice to the above, the income estimated by the learned Commissioner of Income Tax (Appeals) is on higher side.*
6. *Any other grounds may be urged at the time of hearing.*

5. At the outset the only contention of the Ld.AR is that the assessee is a clerk for motor cycle dealer, M/s V.Somasundara Rao and Co., Tanku, having annual income below taxable limit. As directed by his employer, the cash collected from the customers as a service to them towards the life tax payable, deposited the cash in the HDFC bank account No.07411930002153, which shows that most of all the debit entries in the bank account have been related to the transfer of amounts online

through e-seva Kendra to the Road Transport Authorities of A.P.State Government. Thus, the amounts so deposited were immediately utilised for the purpose for which they were given, i.e. payment of life taxes and the cash deposits do not belong to the assessee. The Ld.AR submitted that the revenue authorities are not justified in treating the cash deposited as belonged to the assessee, but it was belonged totally and exclusively to the buyers of the vehicles from M/s V.Soma Sundaram Auto Mobiles and was meant for the purpose for which they were given., i.e. payment of life taxes. He, therefore, pleaded to quash the orders passed by the revenue authorities and delete the addition made.

6. Per contra, the Ld.DR argued that the Ld.CIT(A) is justified in directing the AO to estimate the income of the assessee @8% of the cash deposits in the absence of any documentary evidences filed by the assessee. She, therefore, pleaded to uphold the order of the Ld.CIT(A) and dismiss the appeal of the assessee.

7. We have heard both the parties and perused the material available and also the paper book filed by the assessee. It is apparent from records that the assessee had deposited the cash to the tune of Rs.2,06,08,720/- in his bank a/c No.0741193002153, Tanuku, which said to have been

collected from the customers to whom M/s Soma Sundaram Auto Mobiles sold vehicles, where the assessee is working as a clerk. The AO made addition of the same as the assessee failed to offer any explanation with regard to the claim made by the assessee, where as the Ld.CIT(A) observed that the AO is not justified in considering only credit side entries and not considering the debit side entries and hence directed to verify the aggregate cash deposits made by the assessee in the HDFC bank account for the year under consideration and after verification, whatsoever amount is worked out, compute the income of the assessee @8% of the total cash deposits and restrict the addition to that amount accordingly while giving effect to the order of the Ld.CIT(A). We find no infirmity in the order of the Ld.CIT(A) and accordingly we are inclined to remit the matter back to the file of the AO to verify the cash deposits as directed by the Ld.CIT(A) after giving an opportunity of being heard to the assessee and pass order accordingly. The assessee is also directed to adhere to the notices issued and cooperate with the revenue authorities during the proceedings.

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

Order pronounced in the open court on 28th March, 2024.

Sd/-

(एस बालाकृष्णन)

(S.BALAKRISHNAN)

लेखा सदस्य/ACCOUNTANT MEMBER न्यायिक सदस्य/JUDICIAL MEMBER

Dated : 28.03.2024

L.Rama, SPS

Sd/-

(दुव्वूरु आर.एल रेड्डी)

(DUVVURU RL REDDY)

लेखा सदस्य/ACCOUNTANT MEMBER न्यायिक सदस्य/JUDICIAL MEMBER

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

1. निर्धारिती/ The Assessee- Shri Venkata Nanda Kishore Ganta, D.No.5-1, Near Satram, Pydiparru Post, Tanuku, West Godavari
2. राजस्व/The Revenue -Income Tax Officer, Income Tax Office, Ward-1, Tanuku
3. The Principal Commissioner of Income Tax, Rajahmundry
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापटणम / DR,ITAT, Visakhapatnam
- 5..गार्ड फ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam