

आयकरअपीलीयअधिकरण, विशाखापटणम "SMC" पीठ, विशाखापटणम

**IN THE INCOME TAX APPELLATE TRIBUNAL,
VISA KHAPATNAM BENCH, VISA KHAPATNAM
(through Hybrid Hearing)**

**श्री दुव्वूरु आर एल रेड्डी, न्यायिक सदस्य एवं श्री एस बाला कृष्णन, 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.141/Viz/2024
(निर्धारण वर्ष / Assessment Year : 2021-22)**

Divya Lalwani
22-1-22, Phool Bhag Road
Ambati Satram Junction
Khadamagar
Vizianagaram
[PAN : ABEPL4236A]

Vs. Income Tax Officer
Ward-2
Vizianagaram

(अपीलार्थी/ Appellant)

(प्रत्यर्थी/ Respondent)

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

: Shri Manoj G.Moryani, AR
: Dr.Aparna Villuri, DR

सुनवाई की तारीख / Date of Hearing

: 07.05.2024

घोषणा की तारीख/Date of Pronouncement

: 28.05.2024

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)]-2, Gurugram vide DIN & Order No. ITBA/NFAC/S/250/2023-24/1062560569(1) dated 13.03.2024, arising out of order passed u/s 143(3) of the Income Tax Act, 1961 (in short 'Act') dated 27.12.2022 for the Assessment Year (A.Y.) 2021-22.

2. Brief facts of the case are that the assessment in the case of the assessee was completed for the Asst. Year 2021-22 u/s.143(3) r.w.s.144B of the I.T. Act on 27.12.2022 by making additions aggregating to Rs.86,26,292/-. Against which, the assessee preferred an appeal before the Ld.CIT(A) and sought adjournment, but the Ld.CIT(A) held that the assessee does not want to pursue the appeal by filing the submissions, hence, adjudicated the appeal based on the material available on record and dismissed the appeal of the assessee ex-parte.

3. Aggrieved by the order of the Ld.CIT(A), the assessee preferred an appeal before the Tribunal and the Ld.AR contended that the assessee sought adjournment before the Ld.CIT(A) as the Ld.counsel for the assessee resides at Nagpur and wanted certain documents for proper adjudication of the matter. But the Ld.CIT(A) did not consider the plea of the assessee and dismissed the appeal of the assessee ex-parte. He, therefore, pleaded to set aside the order passed by the Ld.CIT(A) and afford an opportunity of being heard before the Ld.CIT(A) to substantiate her case with credible evidences in the interest of justice.

6. Per contra, the Ld.DR submitted that as observed from the order of the Ld.CIT(A) the assessee was given sufficient opportunities to upload her submissions and substantiate her case, but the assessee sought

adjournment after adjournment of her case, which implied that the assessee doesn't not want to pursue her case by filing submissions. Hence, the Ld.CIT(A) is justified in dismissing the appeal of the assessee ex-parte. The Ld.DR, therefore, pleaded to uphold the order passed by the Ld.CIT(A) and dismiss the appeal of the assessee.

7. We have heard both the parties and perused the material available on record. In the instant case, it is evident that the assessment in the case of the assessee was completed u/s 143(3) r.w.s. 144B of the Act on 27.12.2022 by assessing the income of the assessee at Rs.86,26,292/-, which was upheld by the Ld.CIT(A) and the appeal of the assessee was dismissed ex-parte. As submitted by the Ld.AR, the assessee sought adjournment before the Ld.CIT(A) since the Ld.Counsel for the assessee lives in Nagpur, Maharashtra State, who required certain documents for proper adjudication of the matter and the plea of the assessee was not considered and the appeal of the assessee was dismissed before the Ld.CIT(A). The Ld.AR, therefore pleaded for an opportunity before the Ld.CIT(A) to substantiate assessee's case with material evidences in the interest of justice. Keeping in view the aforesaid facts and circumstances of the case and in order to meet the principles of natural justice, we are inclined to remit the matter back to the file of the Ld.CIT(A) to afford an

opportunity of being heard to the assessee and direct the Ld.CIT(A) to pass order after verification. The assessee is also directed to adhere to the notices issued by the revenue authorities and cooperate with the department during the proceedings.

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

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

Sd/-

(एस बाला कृष्णन)

(S.BALAKRISHNAN)

लेखा सदस्य/ACCOUNTANT MEMBER न्यायिक सदस्य/JUDICIAL MEMBER

Dated : 28.05.2024

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– Divya Lalwani, 22-1-22, Phool Bhag Road, Ambati Satram Junction, Khadamagar, Vizianagaram
2. राजस्व/The Revenue – The Income Tax Officer, Ward-2, Vizianagaram
3. The Principal Commissioner of Income Tax, Visakhapatnam
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापटणम / DR,ITAT, Visakhapatnam
- 5..गार्ड फ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary
 ITAT, Visakhapatnam