

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 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.116/Viz/2024
(निर्धारण वर्ष / Assessment Year : 2013-14)**

Sankaram Siram
D.No.2-69, Main Road
Dagguluru Village
Palakol Mandal
West Godavari Dist.
[PAN : APDPS3611R]

Vs. Income Tax Officer
Ward-1
Palakol

(अपीलार्थी/ Appellant)

(प्रत्यर्थी/ Respondent)

अपीलार्थी की ओर से/ Appellant by

: Shri G.V.N.Hari, AR

प्रत्यर्थी की ओर से / Respondent by

: Dr.Aparna Villuri, CIT(DR)

सुनवाई की तारीख / Date of Hearing

: 30.05.2024

घोषणा की तारीख/Date of Pronouncement

: 31.05.2024

आदेश /ORDER

Per Shri Duvvuru RL Reddy, Judicial Member :

Condonation of Delay :

This appeal is filed by the assessee against the order of Commissioner of Income Tax (Appeals) [CIT(A)], National Faceless Appeal Centre (NFAC), Delhi, vide DIN & Order No. ITBA/NFAC/S/250/2023-24/1058169542(1) dated 23.11.2023, arising out of order passed u/s 147 of the Income Tax Act, 1961 (in short 'Act')

dated 31.03.2022 for the Assessment Year (A.Y.) 2013-14 with the delay of 59 days. The assessee filed petition for condonation of delay and submitted that the assessee suffered from severe lower back pain and hypertension and was under treatment and bed rest during the period from 24.11.2023 to 15.03.2024. The assessee furnished medical certificate and submitted that the assessee could not attend to any other affairs during this period and hence, the appeal could not be filed within the due date. As soon as the condition improved, the assessee took necessary steps and filed the appeal on 21.03.2024. The assessee further submitted that the delay in filing the appeal was due to the reasons explained above which were neither intentional nor deliberate. He, therefore pleaded to condone the delay of 59 days and pass appropriate orders in the interest of rendering substantial justice.

2. We have gone through the condonation petition and medical certificate filed by the assessee. We find there is a sufficient cause for the assessee to file the appeal belatedly. Hence, we condone the delay and admit the appeal for hearing.

3. Brief facts of the case by the assessee are that the assessee is an individual and has not filed return of income for the A.Y.2013-14. During the course of assessment proceedings, it is observed that the assessee made cash deposits aggregating to Rs.1,29,26,227/- in his savings bank

account. The assessee did not disclose the sources for the cash deposits by filing the return of income for the A.Y.2013-14. The assessee's case was selected for scrutiny by way of issuing notice u/s 148 of the Act. But no compliance was made by the assessee and no return of income was filed. Further notice u/s 142(1) was issued and served on the assessee followed by a show cause notice dated 26.03.2022 to show cause as to why the assessment should not be completed u/s 144 r.w.s.147 r.w.s.144B of the Act to the best of the judgement, But, since no explanation was offered about the nature and source of acquisition of the amount, the AO treated the cash deposits of Rs.1,29,26,227/- as unexplained cash credit u/s 68 of the Act and penalty proceedings u/s 271(1)(c), 271(1)(b) and 271F of the Act were initiated.

4. Aggrieved by the order of the AO, the assessee preferred an appeal before the CIT(A) and the Ld.CIT(A) dismissed the appeal of the assessee ex-parte.

5. Aggrieved by the order of the Ld.CIT(A) the assessee preferred an appeal before the Tribunal by raising the following grounds :

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) is not justified in dismissing the appeal ex-parte.

3. *Without prejudice to the above, the learned Commissioner of Income Tax (Appeals) ought to have deleted the addition of Rs.1,29,26,227 made by the assessing officer towards unexplained cash deposits in the bank account of the appellant.*

4. *The learned Commissioner of Income Tax (Appeals) ought to have held that the total income was wrongly computed at Rs.2,58,52,454 in the computation sheet while the total income assessed was only Rs.1,29,26,227.*

5. *Any other ground that may be urged at the time of appeal hearing.*

6. The only contention of the Ld.AR is that the Ld.CIT(A) is not justified in dismissing the appeal of the assessee ex-parte by sustaining the additions made by the AO of Rs.1,29,26,227/- u/s 68 of the Act without giving sufficient opportunity of being heard to the assessee. He further submitted that the total income was wrongly computed at Rs.2,58,52,454/- in the computation sheet while the total income assessed was only Rs.1,29,26,227/-. He, therefore, pleaded for an opportunity of being heard before the Ld.CIT(A) in the interest of justice, otherwise, the assessee would suffer great financial loss.

7. Per contra, the Ld.DR submitted that as observed from the orders of the revenue authorities, the assessee was given sufficient opportunities before the Ld.CIT(A), but the assessee failed to avail the same. 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.

8. We have heard both the parties and perused the material available on record. In the instant case, assessment in the case of the assessee was completed u/s 68 of the Act and the addition made by the AO of Rs.1,29,26,227/- was sustained by the Ld.CIT(A). As contended by the Ld.AR that the total income was wrongly computed at Rs.2,58,52,454/- in the computation sheet while the total income assessed was only at Rs.1,29,26,227/- and the assessee was not given proper opportunity of being heard before the Ld.CIT(A) to controvert the findings of the revenue authorities therefore, pleaded for an opportunity of being heard before the Ld.CIT(A) 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) with a direction to afford an opportunity of being heard to the assessee to present his case. The assessee is also directed to adhere to the notices issued by the revenue authorities and cooperate during the proceedings.

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

Order pronounced in the open court on 31st May, 2024.

Sd/-

(एस बाला कृष्णन)

(S.BALAKRISHNAN)

लेखा सदस्य/ACCOUNTANT MEMBER न्यायिक सदस्य/JUDICIAL MEMBER

Dated : 31.05.2024

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- Sankaram Siram, D.No.2-69, Main Road, Dagguluru Village, Palakol Mandal, West Godavari Dist.
2. राजस्व/The Revenue - The Income Tax Officer, Ward-1, Aayakar Bhavan, Doddipatla Road, Palakol
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