

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.16/Viz/2024

(निर्धारणवर्ष/ Assessment Year : 2018-19)

Assistant Commissioner of
Income Tax,
Rajamahendravaram.

(अपीलार्थी/ Appellant)

अपीलार्थीकीओरसे/ Assessee by

प्रत्यार्थीकीओरसे/ Revenue by

Vs.

Seetha Venkata Lakshmi
Ravipati,
Rajahmundry.

(प्रत्यर्थी/ Respondent)

Sri GVN Hari, AR

Dr. Aparna Villuri, Sr. AR

सुनवाईकीतारीख/ Date of Hearing

घोषणाकीतारीख/Date of
Pronouncement

:

28/05/2024

:

13/06/2024

ORDER

PER S. BALAKRISHNAN, Accountant Member :

This appeal filed by the Revenue is against the order of the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi ["Ld. CIT(A)-NFAC"] in DIN & Order No. ITBA/NFAC/S/250/2023-24/1058132168(1), dated 22/11/2023

arising out of the order passed U/s. 143(3) of the Income Tax Act, 1961 [“the Act”] for the AY 2018-19.

2. Briefly stated the facts of the case are that the assessee is a sole proprietary concern engaged in money lending for interest against gold ornaments and at the same time the gold collected against such lending will be pledged with the financial institutions for refinancing purpose. The assessee filed her return of income for the AY 2018-19 admitting a total income of Rs. 1,69,80,980/- on 10/03/2018. The return was summarily processed U/s. 143(1) of the Act. Later, the case was selected for complete scrutiny under CASS for verification of the income from other sources, cash deposits increased during the year under consideration. Thereafter, notice U/s. 143(2) of the Act was issued on 28/09/2019 and served through e-filing portal. Subsequently, notice U/s. 142(1) was also issued and served on the assessee. In response, the assessee submitted her response through e-filing portal. After examining the submissions made by the assessee, the Ld. AO framed the assessment by making the following additions viz.,

- (i) Addition on account of cash deposits U/s. 68 of the Act - Rs. 22,27,01,531/-;
- (ii) Introduction of capital - Rs. 5,89,79,965/-;
- (iii) Interest on income tax refund – Rs. 5,68,895/-.

Accordingly, the Ld. AO determined the assessed income at Rs. 29,92,31,371/-. Being aggrieved by the additions made by the Ld. AO, the assessee filed an appeal before the Ld. CIT(A)-NFAC.

3. On appeal, considering the various submissions made by the assessee during the first appellate proceedings, the Ld. CIT(A)-NFAC allowed the appeal of the assessee. On being aggrieved by the order of the Ld. CIT(A)-NFAC, the Revenue is in appeal before the Tribunal by raising the following grounds of appeal:

“1. The order of the Ld. CIT(A)-NFAC is erroneous in law and to the facts of the case.

2. The Ld. CIT(A)-NFAC is not justified in deleting the addition of Rs. 5,89,79,965/- U/s. 68 of the Act on capital introduction out of money received on account of onetime settlement for mortgaged amount with Shri Ram City Union Finance though the assessee failed to produce any supporting documentary evidence in support of her claim during the assessment proceedings. The Ld. CIT (a) has not justified in allowing window dressing of accounts as claimed by the assessee without any supporting evidence. Further, in terms of window dressing of accounts for obtaining credit facilities by indicating a financial position that is not warranted by the books of accounts of the assessee, the same is a commission of colossal act of misrepresentation as held by the Hon’ble High Court of Calcutta in the case of [2018] 94 taxmann.com 422 (Calcutta) 257 Taxman 58.

3. The appellant craves leave to add or delete or amend or substitute any ground of appeal before and / or at the time of hearing of appeal.

4. For these and other grounds that may be urged at the time of appeal hearing, it is prayed that all these above additions be restored.”

4. Grounds No. 1, 3 and 4 are general in nature and therefore they need no adjudication.

5. Ground No.2 relates to the deletion of addition of Rs.5,89,79,965/- U/s. 68 of the Act being the capital introduced by the assessee in her capital account. At the outset, the Learned Departmental Representative ["Ld. DR"] by relying on the order of the Ld. AO submitted that the assessee has engaged in window dressing of the books of accounts. The Ld. DR also submitted that waiver of liability should be considered as income in the hands of the assessee. In this regard, the Ld. DR relied on the decision of the Hon'ble High Court of Kolkata in the case of Binod Kumar Agarwala vs. CIT [2019] 411 ITR 493 (Calcutta). He therefore pleaded that the order of the Ld. AO be upheld.

Per contra, The Learned Authorized Representative ["Ld. AR"] argued that the assessee is in the business of finance and has taken refinancing from Shri Ram City Union Finance. It was further submitted by the Ld. AR that the amount from Shri Ram City Union Finance is a liability of the assessee which was also disclosed in the balance sheet. Further, the Ld. AR also submitted that this liability was added back to the capital account of the assessee to project a better capital infusement by

the proprietor. It was further argued that being a proprietary concern, the assessee provisionally liable for any liability and hence grouping of liability to Shri Ram City Union Finance for Rs. 5,89,79,965/- cannot be considered as unexplained and taxed by invoking the provisions of section 68 r.w.s 115BBE of the Act. The Ld. AR further pleaded that the Ld. Revenue Authorities have not disputed the loan amount availed by the assessee and a mere grouping of the loan with the capital account does not mean that the loan remains unexplained. He therefore pleaded that the order of the Ld. CIT(A)-NFAC be upheld.

6. We have heard both the sides and perused material available on record as well as the orders of the Ld. Revenue Authorities. It is an undisputed fact that the assessee has taken a loan from Shri Ram City Union Finance which is evidenced from page 109 of the paper book submitted by the assessee. It is also undisputed that this loan amount was added to the capital account of the assessee in order to present better statement of account of the assessee. The Revenue has not disputed the loan amount taken by the assessee from Shri Ram City Union Finance but has only contested the clubbing of the loan account with the capital account and thereby treating it as unexplained income in

the hands of the assessee. There is no merit in the argument of the Ld. DR that since there is a waiver of the loan account, it shall be taxed U/s. 68 r.w.s 115BBE of the Act. In the instant case since the outstanding amount to Shri Ram City Union Finance was not disputed by the Revenue, it cannot not be considered as a ground for considering the clubbing of the outstanding amount with the capital account as unexplained and subject it to tax U/s. 68 r.w.s 115BBE of the Act. We therefore are inclined to dismiss the ground raised by the Revenue as there is no merit in treating the amount of Rs. 5,89,79,965/- as unexplained U/s. 68 r.w.s 115BBE of the Act.

7. In the result, appeal of the Revenue is dismissed.

Pronounced in the open Court on 13th June, 2024.

Sd/-

(दुव्वूरु आर. एल रेड्डी)
(DUVVURU RL REDDY)

न्यायिकसदस्य/JUDICIAL MEMBER

Sd/-

(एस बालाकृष्णन)
(S.BALAKRISHNAN)

लेखासदस्य/ACCOUNTANT MEMBER

Dated :13.06.2024

OKK - SPS

आदेशकीप्रतिलिपिअग्रेषित/Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee–Seetha Venkata Lakshmi Ravipati, D.No. 7-30-40 & 41, Main Road Opp. Manikanta Book Stall, Rajahmundry – 533101, Andhra Pradesh, India.
2. राजस्व/The Revenue –Asst. Commissioner of Income Tax, Circle-1, Rajamahendravaram Range, Rajamahendravaram, Andhra Pradesh – 533105.
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