

आयकरअपीलीयअधिकरण, विशाखापटणमपीठ, विशाखापटणम

**IN THE INCOME TAX APPELLATE TRIBUNAL,
VISAKHAPATNAMBENCH, VISAKHAPATNAM**

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

Akbar Pasha Khadri Sayad
1-146, Main Road
Boravancha
Nuzvid
[PAN : EBQPS5611]

Vs. Income Tax Officer
Ward-3(1)
Vijayawada

(अपीलार्थी/ Appellant)

(प्रत्यर्थी/ Respondent)

अपीलार्थी की ओर से/ Appellant by

: None (Shri K.Siva Ram
Kumar, AR)

प्रत्यर्थी की ओर से/ Respondent by

: Dr.Aparna Villuri, DR

सुनवाई की तारीख/ Date of Hearing

: 12.06.2024

घोषणा की तारीख/Date of Pronouncement

: 20.06.2024

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 vide DIN & Order No.ITBA/NFAC/S/250/2023-24/1059094642(1) dated 27.12.2023 arising out of order passed u/s 147 of the Income Tax Act, 1961 (in short 'Act') dated 22.03.2022 for the assessment year (A.Y.)2013-14.

2. Brief facts of the case are that the assessee is an individual and assessment in the case of the assessee was completed by the Assessing Officer (AO) and addition of Rs.1,35,82,300/- was made u/s 69A and Rs.4,110/- u/s 56 of the Act, thereby, assessing the total income of the assessee at Rs.1,35,86,410/-.

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

4. Aggrieved by the order of the Ld.CIT(A), the assessee preferred an appeal before the Tribunal and raised the following grounds of appeal:

1. In the facts and circumstances of the case, learned CIT(Appeals) ought to have considered the facts of the case and the Grounds of appeal before dismissal ex-parte.

2. Learned CIT(Appeals) issued hearing notices on 11.8.23 and 23.11.23 and proceeded to pass orders ex parte and the appellant was not accorded a fair opportunity of hearing before dismissal.

3. In the facts and circumstances of the case, learned CIT(Appeals) erred in not observing that the Notice dt.29.3.2021 u/s 148 issued by the jurisdictional AO (ITO Ward-3(1), Vijayawada) was not in accordance with the law being time-barred, learned CIT(Appeals) has not considered the jurisdictional error raised before him in the Appeal Memorandum, which goes to the root of the assessment.

4. The appellant crave leave to add or amend any Ground of Appeal.

5. Neither the assessee nor his representative has appeared before the Tribunal. The only contention of the assessee as raised in the Ground No.2 is that the Learned CIT(Appeals) issued hearing notices on 11.8.23 and 23.11.23 and proceeded to pass order, ex parte without according a fair opportunity of hearing to the assessee before dismissal.

6. The Ld.DR submitted that as evident from the orders of the revenue authorities, the assessee was given sufficient opportunities, but the assessee did not avail the same. Hence, the Ld.CIT(A) is justified in dismissing the appeal of the assessee ex-parte. She, therefore, pleaded to uphold the order of the Ld.CIT(A) and dismiss the appeal of the assessee.

7. We have heard the Ld.DR and perused the material placed on record. It is evident that the assessment in the case of the assessee was completed, assessing the total income of the assessee at Rs.1,35,86,410/- and the assessee's appeal before the Ld.CIT(A) was dismissed ex-parte. The only contention of the Ld.AR is that the assessee was not given sufficient time to substantiate his claim with evidences and prayed 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. 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 20th June,2024.

Sd/-

(एस बालाकृष्णन)

(S.BALAKRISHNAN)

लेखा सदस्य/ACCOUNTANT MEMBER न्यायिक सदस्य/JUDICIAL MEMBER

Dated : 20.06.2024

L.Rama, SPS

Sd/-

(दुव्वूरुआर.एल रेड्डी)

(DUVVURU RL REDDY)

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

1. निर्धारिती/ The Assessee–Akbar Pasha Khadri Sayad, 1-146, Main Road Boravancha, Nuzvid
- 2.राजस्व/The Revenue –The Income Tax Officer, Ward-3(1), Vijayawada
3. The Principal Commissioner of Income Tax,Vijayawada
- 4.विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापटणम / DR,ITAT, Visakhapatnam
- 5..गार्ड फ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam