

आयकर अपीलीय अधिकरण, 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.142/Viz/2024

(निर्धारण वर्ष / Assessment Year : 2017-18)

Guna Adinarayana,
Guntur.

PAN: ATMPG9707B

(अपीलार्थी/ Appellant)

अपीलार्थी की ओर से/ Assessee by

प्रत्यार्थी की ओर से / Revenue by

Vs. The Income Tax Officer,
Ward-1(1),
Guntur.

Guntur.

(प्रत्यर्थी/ Respondent)

Sri GVN Hari, AR

Dr. Aparna Villuri, Sr. AR

सुनवाई की तारीख / Date of Hearing

घोषणा की तारीख/Date of
Pronouncement

11/06/2024

24/07/2024

ORDER

PER S. BALAKRISHNAN, Accountant Member :

This appeal filed by the assessee 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/250/2023-24/1060595946(1), dated 7/2/2024 arising out of the order passed U/s. 271D of the Act for the AY 2017-18.

2. Briefly stated the facts of the case are that the assessee, an individual, filed his return of income on 4/8/2017 admitting a total income of Rs. 2,00,760/-. Subsequently, the case was selected for scrutiny through CASS to verify '*large cash deposits during the demonetization period*'. Thereafter, statutory notices U/s. 143(2) and 142(1) of the Act were issued and served on the assessee through ITBA portal requesting the assessee to furnish the information like copies of return of income, bank passbook, sale deed of the site sold and other related information. The assessee filed the details from time to time before the Ld. AO. Considering the submissions made by the assessee, the Ld. AO completed the assessment by accepting the income returned by the assessee. Thereafter, the Ld. JCIT, Range-1, Guntur issued a notice U/s. 271D of the Act vide Document Reference ID: ITBA/PNL/S/271D/2021-22/1034442381(1), dated 27/07/2021 stating that the assessee has failed to comply with the provisions of section 269SS of the Act by accepting the cash as sale consideration for the sale of land registered vide Document No. 10456/2016 at SRO, Eluru. In response, the assessee submitted reply stating that it is an agricultural land and sold to an agriculturist. Further, it was stated that the entire amount of sale consideration in cash was paid before the SRO, Eluru.

However, the Ld. AO did not accept the contention of the assessee and proceeded to levy the penalty of Rs. 33,25,000/- for contravening the provisions of section 269SS of the Act. Aggrieved by the penalty order of the Ld. AO, the assessee filed an appeal before the Ld. CIT(A)-NFAC.

3. On appeal, the Ld. CIT(A)-NFAC confirmed the penalty levied U/s. 271D of the Act by the Ld. AO and dismissed the appeal. Aggrieved by the order of the Ld. CIT(A)-NFAC, the assessee is in further appeal before the Tribunal by raising the following grounds of appeal:

- “1. *The order of the Ld. CIT(A) is contrary to the facts and also the law applicable to the facts of the case.*
2. *The Ld. CIT(A) is not justified in sustaining the penalty of Rs. 33,25,000/- levied by the AO U/s. 271D of the Act for accepting sale proceeds of immovable property in cash.*
3. *Any other ground that may be urged at the time of appeal hearing.”*

4. The assessee also filed a petition for admission of the additional grounds of appeal as follows:

- “1. *The penalty levied U/s. 271D of the Act vide order dated 18/03/2022 is barred by limitation.*
2. *The penalty levied U/s. 271D of the Act is invalid in the absence of any satisfaction recorded in the assessment order.”*

5. At the outset, the Learned Authorized Representative [“Ld. AR] submitted that the issue of validity of the penalty notice raised by way of additional grounds of appeal was not raised before the Ld. CIT(A)-NFAC due to inadvertence. Further, the Ld. AR also submitted that the Ld. CIT(A)-NFAC has not considered the reply of the assessee that the agricultural land has been sold to an agriculturist. The Ld. AR therefore pleaded that the issue may be remitted back to the file of the Ld. CIT(A)-NFAC for adjudication of the additional grounds of appeal and to consider the replies of the assessee.

Per contra, the Ld. Departmental Representative [“Ld. DR”] relied on the orders of the Ld. Revenue Authorities and argued in support of the same.

6. We have heard both the sides and perused the material available on record as well as the orders of the Ld. Revenue Authorities. On perusal of the order of the Ld. CIT(A)-NFAC, we find that the Ld. CIT(A)-NFAC has not discussed about the submissions made by the assessee regarding the sale of agricultural land. Further, in order to provide one more opportunity to the assessee to raise the additional legal ground

before the Ld. CIT(A)-NFAC, we consider it deem fit to remit the matter back to the file of the Ld. CIT(A)-NFAC thereby directing the Ld. CIT(A)-NFAC to adjudicate the case on merits by providing one more opportunity of being heard to the assessee in accordance with the principles of natural justice. It is ordered accordingly.

7. In the result, appeal filed by the assessee is allowed for statistical purposes as indicated herein above.

Pronounced in the open Court on 24th July, 2024.

Sd/-

(दुव्वूरु आर.एल रेड्डी)

(DUVVURU RL REDDY)

न्यायिकसदस्य/JUDICIAL MEMBER

Dated : 24.07.2024

OKK - SPS

Sd/-

(एस. बालाकृष्णन)

(S.BALAKRISHNAN)

लेखा सदस्य/ACCOUNTANT MEMBER

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

1. निर्धारिती/ The Assessee – Guna Adminarayana, D.No. 3-1-341, Flat No. 105, Golden Homes, Krishna Nagar, Guntur, Andhra Pradesh – 522006.
2. राजस्व/The Revenue – The Income Tax Officer, Ward-1(1), C.R. Buildings, Kannavarithota, Guntur, Andhra Pradesh – 522001.
3. The Principal Commissioner of Income Tax,
4. आयकर आयुक्त (अपील)/ The Commissioner of Income Tax

5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापटणम/ DR, ITAT, Visakhapatnam
6. गार्ड फ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam