

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

**IN THE INCOME TAX APPELLATE TRIBUNAL
VISA KHAPATNAM BENCH, VISA KHAPATNAM**

श्री दुव्वूरु आर एल रेड्डी, न्यायिक सदस्य

BEFORE SHRI DUVVURU RL REDDY, HON'BLE JUDICIAL MEMBER

आयकर अपील सं./I.T.A. No. 146/VIZ/2024
(निर्धारण वर्ष/ **Assessment Year: 2017-18**)

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| Bejavada Subbayamma D.No. 15-48, Meenanagaram Chagallu Mandal– 534342 West Godavari District Andhra Pradesh [PAN : CNNPB7575B] (अपीलार्थी/ Appellant) | v. | Income Tax Officer – Ward – 2 Income Tax Office Aayakar Bhavan, Sajjapuram Tanuku – 534211 Andhra Pradesh (प्रत्यर्थी/ Respondent) |
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| करदाता का प्रतिनिधित्व / Assessee Represented by | : | Smt A. Aruna, AR |
| राजस्व का प्रतिनिधित्व / Department Represented by | : | Dr. Aparna Villuri, Sr.AR |
| सुनवाई समाप्त होने की तिथि / Date of Conclusion of Hearing | : | 21.08.2024 |
| घोषणा की तारीख/Date of Pronouncement | : | 23.08.2024 |

आदेश /ORDER

PER SHRI DUVVURU RL REDDY, JUDICIAL MEMBER:

1. This appeal is filed by the assessee against the order of Learned Commissioner of Income Tax (Appeals) [hereinafter in short "Ld. CIT(A)"], National Faceless Appeal Centre (NFAC), Delhi in DIN & Order No. ITBA/NFAC/S/250/2023-24/1052676836(1) dated 09.05.2023 arising out

of order passed Under section 144 of the Income Tax Act, 1961 (in short 'Act') dated 27.12.2019 for the A.Y. 2017-18.

2. Briefly stated facts of the case are that, the husband of the appellant; One B. Surya Rao, was allotted licence for liquor business for the Financial Year 2015-16. He carried his business till his demise and after his demise, the assessee/appellant continued the business with the same license issued to her husband. The Excise Department also permitted to do the same business, therefore they continued to deduct TCS under the PAN of husband of the assessee and also filed the TCS returns in his name only. However, the bank authorities did not allow the appellant to operate the bank account operated by her husband for the liquor business. Thereafter the appellant opened the new account on 28.11.2016 bearing Account No. 041311100001079 in the same branch for the liquor business and the sale proceeds were deposited in the account. The appellant filed the return of income on her husband for the A.Y. 2017-18 on 01.12.2018 dully incorporating the turnover in the said bank account in the returned income.

3. On 19.09.2019, the Assessing Officer issued a letter asking the appellant to submit the details of business and source for the deposits in the format mentioned in the letter. The appellant could not comply with

the show cause notices. However, all the relevant details for the cash deposits were already submitted at the time of filing of the return of income. The Assessing Officer completed the assessment on 27.12.2019 by treating the cash deposits of Rs.12,07,827/- as unexplained cash deposits as the source of such deposits stood unverified since assessee failed to avail the opportunities provided by the Assessing Officer to the assessee.

4. Being aggrieved, the assessee preferred an appeal before the Ld.CIT(A) with a delay of 719 days. After considering the COVID-19 situations, Ld. CIT(A), NFAC, Delhi condoned the delay of 719 days and proceeded to dispose of the case on merits. Ld. CIT(A) issued four (4) notices to the assessee asking her to file a reply. In spite of receipt of the notices, she did not comply with the notices. Due to that Ld. CIT(A) disposed off the appeal based on the material available on record and came to the conclusion that the assessee has failed to explain the source of cash deposits an amount of Rs. 12,07,827/- deposited during the demonetisation period. Therefore, Ld. CIT(A) confirmed the order passed by the Ld. Assessing Officer.

5. Being aggrieved, assessee preferred an appeal before the ITAT with a delay of 275 days and also assessee filed a petition for condonation of

delay of 275 days. In order to substantiate assessee's case, assessee has raised 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) ought to have decided the appeal on the basis of merits of the case.*
- 3. The learned Commissioner of Income Tax (Appeals) ought to have directed the assessing officer to delete the addition of Rs.12,07,827/- made u/s 69A of the Act towards unexplained cash deposits in bank account.*
- 4. Any other grounds may be urged at the time of hearing.*

6. In order to condone the delay, it was the submission of the assessee that her Chartered Accountant's wife was not well and she was admitted in Apollo hospitals, Chennai, for treatment. Due to that counsel for the assessee was unable to file the appeal in time. He further argued that the assessee has filed the discharge summary and medical records of the wife of the Chartered Accountant of the assessee, there is no wilful negligence or laches on the part of the assessee and pleaded to condone the delay of 275 days.

7. On the other hand, Ld. Departmental Representative [hereinafter in short "Ld. DR"] submitted that the assessee has not cooperated during the assessment proceedings as well as the appellate proceedings and also

the assessee filed the appeal before the ITAT with a huge delay of 275 days. Ld. DR further submitted that the assessee has not properly explained the delay and her only contention is Chartered Accountant's wife was not well that itself is not a valid ground to condone the delay of 275 days, hence pleaded to dismiss the appeal as not maintainable.

8. Heard both sides and perused the material available on record. I had gone through the medical records filed by the assessee i.e., prescription copies and two discharge summaries and one final scanning report. According to the discharge summary, Wife of the Chartered Accountant of the assessee, was admitted on 24.07.2022 and after her surgery she was discharged on 01.08.2022. Thereafter they have not filed any evidences showing the further treatment of wife of Chartered Accountant of the assessee. However, they filed one scanning report dated 17.04.2023. **But the Ld. CIT(A) passed the order on 09.05.2023, thus it is clear that after one month of her treatment, the Ld. CIT(A) passed the order, therefore the assessee has to file the appeal on or before 08.07.2023 but has filed this appeal on 08.04.2024.** After considering the facts and circumstances of the case, the contention of the assessee that the delay caused due to ill-health of the wife of the Chartered Accountant is not tenable. Thus,

there is no satisfactory cause to condone the delay of 275 days. Therefore, I am of the view that assessee has miserably failed to explain the sufficient cause for which she was prevented to file the appeal within the time. The reasons mentioned in the condonation petition are totally false. Moreover, the assessee did not prosecute the proceedings before the Assessing Officer as well as Ld. CIT(A) and even after passing the order of the Ld. CIT(A) the assessee did not prefer the appeal within the time. Therefore, I am of the considered view that the delay is only due to negligence act of the assessee. Therefore, the grounds raised by the assessee are dismissed.

9. In the result, appeal filed by the assessee is not maintainable and dismissed in-limine.

Order pronounced in the open court on 23rd August, 2024.

Sd/-
(दुव्वूरु आर.एल रेड्डी)
(DUVVURU RL REDDY)
न्यायिक सदस्य/JUDICIAL MEMBER
Dated :. 23.08.2024
Giridhar, Sr.PS

आदेश की प्रति लिपिअग्रेषित / Copy of the order forwarded to :-

1. निर्धारिती / The Assessee : Bejavada Subbayamma
D.No. 15-48, Meenanagaram
Chagallu Mandal– 534342
West Godavari District
Andhra Pradesh
2. राजस्व / The Revenue : Income Tax Officer – Ward – 2
Income Tax Office
Aayakar Bhavan, Sajjapuram
Tanuku – 534211
Andhra Pradesh
3. The Principal Commissioner of Income Tax
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापटणम / DR, ITAT, Visakhapatnam
5. The Commissioner of Income Tax
6. गार्ड फ़ाईल / Guard file

//True Copy//

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam