

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

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

**श्रीदुव्वूरु 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. 300/VIZ/2024
(निर्धारण वर्ष/ Assessment Year: 2018-19)**

| | | |
|---|----|--|
| Sivasankar Paidipati Flat No. 303, 3 rd Floor Sri Rama Heights Rayalam Bhimavaram, West Godavari Andhra Pradesh - 534204 [PAN : BXPPP7642L] (अपीलार्थी/ Appellant) | v. | Income Tax Officer – Ward –1 Income Tax Office, J.P. Road Sivaraopet, Bhimavaram (प्रत्यर्थी/ Respondent) |
|---|----|--|

| | | |
|--|---|---------------------------|
| करदाता का प्रतिनिधित्व / Assessee Represented by | : | Kumar Pal, AR |
| राजस्व का प्रतिनिधित्व / Department Represented by | : | Dr. Aparna Villuri, Sr.AR |
| | | |
| सुनवाई समाप्त होने की तिथि / Date of Conclusion of Hearing | : | 02.09.2024 |
| घोषणा की तारीख/Date of Pronouncement | : | 05.09.2024 |

आदेश /O R D E R

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/250/2024-25/1065133650(1) dated 27.05.2024 arising out of order passed Under section 144 of the Income Tax Act, 1961 (in short 'Act') dated 29.04.2021 for the A.Y. 2018-19.

2. Briefly stated facts of the case are that, assessee is an individual engaged in the business of "commission agent" for and on behalf of shrimp processing units. Assessee filed his return of income on 26.10.2018 declaring an income of Rs.5,83,070 for the A.Y. 2018-19. The case of the assessee has been selected for complete scrutiny on the issue, "Large commission expenses and low net profit" and notice under section 143(2) of the Act was issued on 28.09.2019. Subsequently notices under section 142(1) of the Act were also issued to the assessee from time to time seeking relevant information/documents. However, the assessee could not file any reply for the notices issued by the Revenue Authorities due to Covid-19 Pandemic. Thereafter the assessment under section 144 r.w.s. 144B of the Act was completed by the Assessing Officer by assessing the income of the assessee at Rs.87,78,080/- after making following additions: -

- i. *The expenses claimed by the assessee on account of commission paid at Rs.63,71,336/- are disallowed.*
- ii. *15% of commission expenses of Rs.48,24,487/- i.e., Rs.7,23,673/-.*
- iii. *Disallowance of Chapter VI A Deductions amounting to Rs.2,50,000/-*
- iv. *Addition of unsecured loan under section 68 of the Act amounting to Rs. 7,00,000/-.*
- v. *Addition of agricultural income amounting to Rs. 1,50,000/-*

3. On being aggrieved, assessee preferred an appeal before Ld. CIT(A) but the assessee even after receipt of the hearing notices on various dates did not file any supporting documents on his contentions as per the grounds of appeal raised by him. Therefore, the Ld. CIT(A) disposed off this appeal based on the merits available on record.

4. On being aggrieved, assessee preferred an appeal before me and raised following grounds of appeal: -

“1. The CIT(A) erred by passing the Order u/s 250 without taking into account the response of the appellant.

2. The order was passed ex parte by CIT(A). The CIT(A) ought to have appreciated the fact that appellant could not submit his response in support of the appeal submitted as his health was not good.

3. The CIT(A) erred by disallowing the deduction of commission expenditure of Rs.63,71,336/-:

4. The CIT(A) ought to have appreciated the fact that appellant had paid the above commission amount to the intermediaries for their services rendered and the same should be allowable as expenses as per the provisions of Income Tax Act.

5. The CIT(A) ought to have appreciated that appellant acts as a commission agent for shrimp processing units and the intermediaries used to bring the prawn/shrimp farmers to the appellant and in consideration for the service appellant paid commission to the intermediaries.

6. The CIT(A) erred by disallowing expenditure of 15% from expenditure of Rs.48,24,487 i.e. Rs.7,23,673/-.

7. The CIT(A) ought to have appreciated the fact that expenditure of Rs.48,24,487 was incurred towards business purpose and the whole expenditure should be allowable as deduction from income as per the provisions of Income Tax Act.

8. The CIT(A) erred by disallowing chapter VI-A deduction of Rs.2,50,000/-. The CITA) ought to have appreciated the fact the deduction

claimed is genuine and appellant has in his possession all the evidences and documents to prove the genuineness of the deduction claimed.

9. *The CIT(A) erred by treating the unsecured loan of Rs.7,00,000/- as unexplained credit u/s 68 and taxing the same u/s 115BBE.*

10. *The CIT(A) ought to have appreciated the fact that loan was obtained from explained sources. The identity and creditworthiness of the lender is established and hence the taxation of the loan receipt u/s 115BBE is incorrect.*

11. *The CIT(A) erred in treating the income from agriculture of Rs. 1,50,000/- as income from other sources and taxing the same.*

12. *The CIT(A) ought to have appreciated the fact that appellant is the owner of 7 acres of agricultural land and income of Rs.1,50,000/- is derived from this same.*

13. *The Appellant may add or alter or amend or modify or substitute or delete and/or rescind all or any of the grounds of appeal at any time before or at the time of hearing of the appeal.”*

5. At the outset, Ld. Authorised Representative [hereinafter “Ld.AR”] submitted that Assessing Officer as well as Ld.CIT(A) passed exparte order without providing adequate opportunity of being heard to the assessee, therefore, considering additions/disallowance made by the Assessing Officer, Ld.AR pleaded that the matter may be remitted back to the file of the Ld. CIT(A).

6. On the other hand, Ld. Departmental Representative [hereinafter in short “Ld. DR”] relied on the order of the Ld.CIT(A) and submitted that assessee has not utilized the opportunity provided by Assessing Officer as well as Ld.CIT(A). Therefore, the order passed by Ld. CIT(A) is exparte order and she pleaded to confirm the orders passed by the Revenue Authorities.

7. We have heard both the sides and perused the material available on record. On a perusal of the assessment order and Ld.CIT(A) order, we find that even though the Assessing Officer and Ld.CIT(A) provided opportunity on several occasions, assessee could not appear nor complied to the notices issued. As per the record notices under section 142 of the Act were issued and due to Covid-19 pandemic assessee not able to participate the proceedings before the Revenue Authorities. Considering the totality of facts and keeping in view the additions / disallowance made by the Assessing Officer, we are of the opinion that assessee should be given one more opportunity of being heard. Therefore, considering the facts and circumstances of the case and in order to meet the principles of natural justice, we are of the view that it is a fit case to remit the matter back to the file of the Ld. CIT(A) for fresh consideration and the assessee is directed to cooperate with the proceedings before the Ld. CIT(A) and in turn Ld. CIT(A) call for remand report, if necessary, and dispose off the case on merits. Therefore, the grounds raised by the assessee are allowed for statistical purposes.

8. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 05th September, 2024.

Sd/-

(एस बालाकृष्णन)

(S. BALAKRISHNAN)

लेखा सदस्य /ACCOUNTANT MEMBER

Dated :. 05.09.2024

Giridhar, Sr.PS

Sd/-

(दुव्वूरु आर.एल रेड्डी)

(DUVVURU RL REDDY)

न्यायिक सदस्य/JUDICIAL MEMBER

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

1. निर्धारिती / The Assessee : Sivasankar Paidipati
Flat No. 303, 3rd Floor
Sri Rama Heights
Rayalam Bhimavaram, West Godavari
Andhra Pradesh - 534204
2. राजस्व / The Revenue : Income Tax Officer – Ward –1
Income Tax Office, J.P. Road
Sivaraopet, Bhimavaram
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