

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. 298/VIZ/2024
(निर्धारण वर्ष/ Assessment Year: 2016-17)**

Mothukuri Srinivasa Rao D.No.54-28/1-48, Flat.No.305 Ridge Grandeur Apartment Road.No.2, Commercial Taxes Colony Auto Nagar, Krishna District Andhra Pradesh - 520007 [PAN : ADPPM5568D] (अपीलार्थी/ Appellant)	v.	The Asst. CIT - Circle-2(1) C R Building, 1st Floor Annex M G Road, Krishna District Andhra Pradesh - 520002 (प्रत्यर्थी/ Respondent)
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करदाता का प्रतिनिधित्व / Assessee Represented by	:	M.V. Prasad, 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/250/2024-25/1065213549(1) dated 29.05.2024 arising out of order passed Under section 143(3) of the Income Tax Act, 1961 (in short 'Act') dated 24.12.2018 for the A.Y. 2016-17.

2. Briefly stated facts of the case are that, assessee is, an Individual, doing retail business under the name and style of Vaishnavi Commercial Corporation, filed his return of income for the A.Y.2016-17 on 17-10-2016 declaring total income of Rs.39,83,030/- and agricultural income of Rs. 19,14,000/-. Subsequently, the case was selected for limited scrutiny under CASS to examine whether sundry creditors are genuine and whether the share capital is genuine and from disclosed sources. Accordingly, notices under section 143(2) and 142(1) of the Act were issued to the assessee by way of e-mail in ITBA module. Thereafter, notice u/s.142(1), dated 19-11-2018 was issued to the assessee as there was change of Incumbent Officer by way of e-mail in ITBA module and certain information has been called for from the assessee. In response, assessee submitted the relevant information as called for.

3. During the course of assessment proceedings, Assessing Officer noticed that the assessee has introduced new capital to the extent of Rs.6,23,60,738/-. From the details filed by the assessee, the Assessing Officer noticed that assessee has introduced an amount of Rs.19,14,000/- as agricultural income in the new

capital introduced. Assessing Officer observed that assessee failed to furnish any proof of the said agricultural income. No proof of agricultural lands, land holding pattern, cropping pattern etc. were submitted by the assessee. The assessee has also not admitted any agricultural income in the Income Tax Returns filed for A.Ys. 2015-16 nor for A.Y.2017-18. Hence, it is evident that assessee has introduced unaccounted sum in the form of agricultural income in capital account.

4. Further on verification of the Capital Account Ledger, Assessing Officer noticed that assessee has introduced a sum of Rs.22,20,585/- by Sri Rajagopal Oil Mills. However, despite giving several opportunities, the assessee failed to furnish details establishing the identity, genuineness and creditworthiness of the said transaction. Hence, the Assessing Officer treated the sum of Rs.22,20,585/- as unaccounted income in the hands of the assessee as per the provisions of Section 68 of the Income Tax Act, 1961. Accordingly, the Assessing Officer completed the assessment by making addition of Rs.41,34,585/- (Rs.19,14,000+ Rs.22,20,585) on account of unaccounted amount according to provisions of Section 68 of the Act.

5. On being aggrieved, assessee preferred an appeal before Ld. CIT(A) and the furnished documents along with the written submissions on 19.10.2021, 08.02.2024, 14.04.2024 & 07.05.2024. After considering the submissions of the

assessee, Ld. CIT(A) dismissed the appeal of the assessee and sustained the order of the Assessing Officer.

6. On being aggrieved, assessee preferred an appeal before the Tribunal and raised following grounds of appeal: -

“1. The Learned CIT (Appeals) is erred in facts and law while passing the order.

2. On the facts and circumstances of the case, the Learned CIT(Appeals) is not justified in confirming the addition made of u/s.68 of the I.T. Act towards unexplained cash credit in respect of capital introduction.

3. On the facts and circumstances of the case, the Learned CIT(Appeals) is not justified in confirming the addition made of Rs.22,20,585/- u/s.68 of the I.T. Act towards unexplained cash credit in respect of capital introduction.

4. On the facts and circumstances of the case, the Learned CIT(Appeals) is not justified in dismissing the appeal without considering the admissibility petition filed under Rule 46A of the I.T. Rules.

5. On the facts and circumstances of the case, the Learned CIT(Appeals) erred in dismissing the appeal on the pretext that no documentary evidences were furnished in support of written submissions even though necessary documentary evidences were furnished on line in the portal along with the petition for admittance of additional evidences under Rule 46A of the I.T. Rules on 08-02-2024 and 07-05-2024 much before adjudication of appeal.

6. On the facts and circumstances of the case, the Learned CIT (A) ought to have accorded a further opportunity to since it was stated by the appellant that the additional capital introduced were out of explainable sources and produced such evidences.

7. Any other legal and factual ground that may be urged at the time of hearing of the appeal.

7. Ld. Authorised Representative [hereinafter “Ld.AR”] submitted that Ld.CIT(A) is not justified in confirming the addition made of u/s.68 of the Act. Further, he submitted that Ld. CIT(A) erred in dismissing the appeal on the pretext that no documentary evidences were furnished in support of written submissions even though necessary documentary evidences were furnished online in the portal along with the petition for admittance of additional evidences under Rule 46A of the I.T. Rules on 08.02.2024 and 07.05.2024 much before adjudication of appeal. Ld.AR pleaded that the matter may be remitted back to the file of the Ld. CIT(A) considering the additions/disallowance made by the Assessing Officer, for fresh verification.

8. On the other hand, Ld. Departmental Representative [hereinafter in short “Ld. DR”] heavily relied on the order of the Ld.CIT(A) and pleaded to sustain the order of the Ld. CIT(A).

9. We have heard both the sides and perused the material available on record. On a perusal of the Ld.CIT(A) order we observe that Ld. CIT(A) has dismissed the appeal of the assessee by observing that assessee has not filed any documentary evidences in support of the contentions raised in its grounds of appeal. Before us, Ld.AR argued that that necessary documentary evidences were furnished online in the portal along with the petition for admittance of additional evidences under Rule 46A of the I.T. Rules on 08.02.2024 and

07.05.2024. 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. Assessee shall cooperate with the proceedings before the Ld. CIT(A) without taking unnecessary adjournments and file all the relevant documentary evidences in support of his contentions. Needless to say that the Ld. CIT(A) shall give adequate opportunity of being heard to the assessee and dispose off the case on merits. Thus, this appeal is restored to the file of the Ld. CIT(A). Grounds raised by the assessee are allowed for statistical purposes.

10. 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 : Mothukuri Srinivasa Rao
D.No.54-28/1-48, Flat.No.305
Ridge Grandeuer Apartment Road.No.2,
Commercial Taxes Colony
Auto Nagar, Krishna District
Andhra Pradesh - 520007
2. राजस्व / The Revenue : The Asst. CIT - Circle-2(1)
C R Building, 1st Floor Annex
M G Road, Krishna District
Andhra Pradesh - 520002
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