

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

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

**श्रीदुव्वूरु आर एल रेड्डी, न्यायिक सदस्य एवं श्री एस बालाकृष्णन, लेखा सदस्य के समक्ष
BEFORE SHRI DUVVURU RL REDDY, HON'BLE JUDICIAL MEMBER**

**आयकर अपील सं./I.T.A. No. 303/VIZ/2024
(निर्धारण वर्ष/ Assessment Year: 2012-13)**

Kondamma Dara 1-23, Anandapuram Visakhapatnam – 531163 Andhra Pradesh [PAN : BFMPD7127R]	v.	Income Tax Officer – Ward – 4(6) Visakhapatnam
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)

करदाता का प्रतिनिधित्व / Assessee Represented by	:	Shri C. Subrahmanyam, AR
राजस्व का प्रतिनिधित्व / Department Represented by	:	Dr. Aparna Villuri, Sr.AR
सुनवाई समाप्त होने की तिथि / Date of Conclusion of Hearing	:	04.09.2024
घोषणा की तारीख/Date of Pronouncement	:	06.09.2024

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/250/2024-25/1066191061(1) dated 28.06.2024 arising out of order passed Under section 147 r.w.s. 144 of the Income Tax Act, 1961 (in short ‘Act’) dated 31.10.2019 for the A.Y. 2012-13.

2. Briefly stated facts of the case are that, assessee is an individual and has not filed return of income for the A.Y. 2012-13. As per the information received

by the Assessing Officer, assessee had purchased certain properties during the F.Y. 2011-12 relevant to A.Y. 2012-13. Accordingly, notice under section 148 of the Act was issued on 19.03.2019 requiring the assessee to file return of income. Assessee filed her return of income on 25.06.2019 after due date of filing of return of income. Subsequently, statutory notices under section 143(2) and 142(1) were issued and served on the assessee from time to time. However, the assessee could not file any reply for the notices issued by the Revenue Authorities. Thereafter the assessment under section 144 r.w.s. 147 of the Act was completed by the Assessing Officer by assessing the income of the assessee at Rs.22,97,365/- after making addition of Rs.22,22,055/- as unexplained investment observing that assessee could not submit explanation for the source of her investment on lands during the F.Y. 2011-12 and treated the same as unexplained investment and brought to tax.

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 her contentions as per the grounds of appeal raised by the assessee. 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. That under the facts and circumstances of the case the order passed u/s 144 r.w.s.147 of the IT Act dt:31/10/2019 that was upheld by the Ld.

CIT(A) NFAC vide order passed u/s 250 of the IT Act dt: 28.06.2024 is not in accordance with facts of the case and provisions of law.

2. *The Commissioner of Income Tax (A) (NFAC) (in short CIT(A)) dismissed the case ex-parte without giving a reasonable opportunity to present the appellant's case. This action violates the fundamental principles of natural justice.*

3. *The Id. CIT(A) disposed of the case without giving any findings on the merits of the appellant's submissions. This is against the provisions of Section 250(6) of the Income Tax Act, which mandate reasoned decisions based on facts and law.*

4. *The Ld. CIT(A) ignored that the appellant had legitimate sources to explain investments towards purchase of land, therefore, the addition confirmed of Rs.22,22,055/- is unwarranted.*

5. *The Ld. CIT(A) is incorrect in upholding the addition of Rs. 13.38 lakhs as an unexplained investment. Further, Rs. 10 lakhs of the sale consideration were paid earlier to the assessment year in question, leaving only Rs. 3.38 lakhs paid during the relevant assessment year.*

6. *Similarly, the Ld. CIT(A) is incorrect in upholding the addition of Rs.4.55 lakhs, Rs. 47,900 and Rs. 1,30,200/- under the guise of unexplained investment without appreciating the facts pertaining to the disputed issue.*

7. *For these and other reasons that are to be urged at the time of hearing of the case the appellant prays that the impugned order is liable to be set-aside in the interest of justice.”*

5. At the outset, Ld. Authorised Representative [hereinafter “Ld.AR”] submitted that Assessing Officer as well as the 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 the

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. Heard both sides and perused the material available on record. On a perusal of the assessment order and Ld.CIT(A) order, it is observed that even though Assessing Officer as well as Ld.CIT(A) provided opportunity on several occasions, assessee could not appear nor complied to the notices issued. Considering the submissions of the Ld.AR and totality of facts and keeping in view the additions / disallowance made by the Assessing Officer, I am 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, I am 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 06th September, 2024.

Sd/-
(दुव्वूरु आर.एल रेड्डी)
(DUVVURU RL REDDY)
न्यायिक सदस्य/JUDICIAL MEMBER
Dated :.06.09.2024
Giridhar, Sr.PS

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

1. निर्धारिती / The Assessee : Kondamma Dara
1-23, Anandapuram
Visakhapatnam – 531163
Andhra Pradesh
2. राजस्व / The Revenue : Income Tax Officer – Ward – 4(6)
Visakhapatnam
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