

**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. 297/VIZ/2024  
(निर्धारण वर्ष/ Assessment Year: 2012-13)**

Sri Gokul Profits D.No. 14-193/1, Sri Krishna Nilayam RTC Complex Road, Rajahmundry – 533105 Andhra Pradesh  [PAN : ABRFS3990B]	v.	Asst. CIT – Circle – 2 Income Tax Office, Aayakar Bhavan Veerabhadrapuram Rajahmundry – 533105 Andhra Pradesh
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)

करदाता का प्रतिनिधित्व / Assessee Represented by	:	Shri G.V. N. Hari, 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/250/2024-25/1065249265(1) dated 30.05.2024 arising out of

order passed Under section 143(3) r.w.s. 147 of the Income Tax Act, 1961 (in short 'Act') dated 30.12.2019 for the A.Y. 2012-13.

2. Briefly stated facts of the case are that, assessee, a firm, filed the original return of income on 31.08.2012 declaring an income of Rs.1,59,685/-. On 02.12.2015, a survey under section 133A of the Act was conducted in the case of M/s. Lakshmi Nivas housing Projects owned by Sri Sagi Srinivasa Rao. Based on the statement given by Sri Sagi Srinivasa Rao, during the course of survey, the case of the assessee is reopened by issuing a notice under section 148 of the Act. In response to the notice, assessee filed revised return of income admitting the original return of income. Subsequently, statutory notices under section 143(2) and 142(1) were issued and served on the assessee. In response, assessee furnished the relevant information as called for and vide reply dated 18.11.2019 submitted that assessee is a partnership firm involved in money lending business. In some cases, the assessee registers property against monies lent and return the property on payment of full amount along with interest by the party. Further, the assessee receives interest on the advances made and it is the source of income of the firm. The assessee further submitted that the assessee had not paid any commission during the year i.e. F.Y.2011-12. The assessee also produced copies of Profit & Loss Accounts and other ledgers. After considering the submissions

of the assessee, Assessing Officer completed the assessment under section 143(3) r.w.s. 147 of the Act by concluding that Sri Sagi Srinivasa Rao collects the monies from the parties and keeps the commission and remits the balance amount to M/s.Sri Gokul Profits and M/s. Srinivasa Estates. Hence the profit and the commission as admitted by Sri Sagi Srinivasa Rao are equally taxable in the hands of M/s. Sri Gokul Profits and M/s. Srinivasa Estates. Therefore, an addition is made in the hands of the assessee.

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 its 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. 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) is not justified in dismissing the appeal exparte.*

*3. The learned Commissioner of Income Tax (Appeals) ought to have deleted the additions made on the basis of statement recorded from third party.*

4. *The learned Commissioner of Income Tax (Appeals) ought to have deleted the addition of Rs.18,75,000 made by the assessing officer u/s 68 of the Act towards alleged unexplained profit received from sale of plots.*

5. *The learned Commissioner of Income Tax (Appeals) ought to have deleted the addition of Rs.18,75,000 made by the assessing officer u/s 69 of the Act towards alleged unexplained commission paid to one Sri Sagi Srinivasa Rao.*

6. *Any other ground that may be urged at the time of appeal hearing.*

5. At the outset, Ld. Authorised Representative [hereinafter “Ld.AR”] submitted that 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 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 Ld.CIT(A) order, it is observed that even though 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 06<sup>th</sup> 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 : Sri Gokul Profits  
D.No. 14-193/1, Sri Krishna Nilayam  
RTC Complex Road, Rajahmundry – 533105  
Andhra Pradesh
2. राजस्व / The Revenue : Asst. CIT – Circle – 2  
Income Tax Office, Aayakar Bhavan  
Veerabhadrapuram  
Rajahmundry – 533105  
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

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आदेशानुसार / BY ORDER

Sr. Private Secretary  
ITAT, Visakhapatnam