

आयकर अपीलियअधिकरण, विशाखापटणम पीठ, विशाखापटणम  
IN THE INCOME TAX APPELLATE TRIBUNAL,  
VISAKHAPATNAM BENCH, VISAKHAPATNAM

श्री दुव्वूरु 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  
**(Through Hybrid Hearing)**

आयकर अपील सं./ I.T.A. No. 321/Viz/2024  
(निर्धारण वर्ष / Assessment Year: 2013-14)

Bapatla Mahila Mutually Aided Co-op. Thrift Society Limited, Bapatla. PAN: AAAAB6442N (अपीलार्थी/ Appellant)	Vs.	Income Tax Officer, Ward-1, Bapatla. (प्रत्यर्थी/ Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Sri I. Kama Sastry, AR
प्रत्यर्थी की ओर से / Respondent by	:	Dr. Aparna Villuri, Sr. AR
सुनवाई की तारीख / Date of Hearing	:	23/09/2024
घोषणा की तारीख/Date of Pronouncement	:	25/09/2024

ORDER

PER DUVVURU RL REDDY, Judicial Member :

This appeal filed by the assessee is against the order of the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi ["Ld. CIT(A)-NFAC"] in DIN & Order No. ITBA/NFAC/S/250/2024-25/1065268991(1), dated 30/05/2024 arising out of the order passed U/s. 147 r.w.s 144 of the Income Tax Act, 1961 ["the Act"] for the AY 2013-14.

2. At the outset, it is noticed that there is a delay of 19 days in filing this appeal before the Tribunal. With respect to belated filing of the appeal, the assessee filed petition for condonation of delay along with the affidavit and the relevant paras of the affidavit is extracted herein below for reference:

- “7. *That the chief functionary of the society Smt. Ambati naga Raja Kumari was hospitalised at Guntur and discharged on 07/06/2024 with advise of bed rest for two months (Doctor Certificate enclosed).*
8. *That the appeal papers were filed online before the Hon’ble Tribunal on 17/08/2024 immediately after the intervening holidays on 15<sup>th</sup> & 16<sup>th</sup> of August, 2024.*
9. *That there is a delay of 12 days in filing the appeal.*
10. *.....”*

3. On perusal of the explanation given by the assessee with respect to filing of the appeal before the Tribunal beyond the prescribed time limit, we find that the assessee was prevented by a reasonable and sufficient cause in filing the appeal within the stipulated time. Therefore, we hereby condone the delay of 19 days in filing the appeal of the assessee before the Tribunal and proceed to adjudicate the appeal on merits.

4. Briefly stated the facts of the case are that the assessee Bapatla Mahila Mutually Aided Cooperative Thrift Society Ltd. As per the

information received from the ITBA portal in AIMS the Ld. AO observed that the assessee has made cash deposits of Rs. 1,33,48,085/- in the savings bank account during the financial year 2012-13, relevant to the A.Y. 2013-14. During the assessment proceedings, the Ld.AO observed that the assessee being a Mahila Mutually Aided Cooperative Thrift Society, the assessee provides loans to its needy members out of the amounts contributed by them. Therefore, since there was no reply to the letters issued to the assessee, the Ld. AO observed that he has reason to believe that the income chargeable to tax has escaped assessment to the extent of Rs. 1,33,48,085/- for the A.Y.2013-14 as per the provisions U/s. 147 of Income Tax Act, as the assessee has not filed its return of income. Later on, notice u/s 148 was issued to the assessee on 29.03.2021 to file their return of income as prescribed under section 148 of the Act within the stipulated time frame i.e. 30 days. In response to the above said notice assessee filed its return of income on 28.05.2021 which was treated as invalid by the CPC, Bangalore. Therefore, the Ld. AO also initiated penalty proceeding U/s. 271F of the Act for non furnishing of return of income within the stipulated time as provided in section 139(1) or 139(4) of the Act. Subsequently, notice U/s. 142(1) was issued along with the detailed questionnaires. However, there was no compliance with reference to said e-notice. Therefore, the Ld. AO also initiated penalty proceedings U/s. 271(1)(b) of the I.T. Act 1961 for non

compliance of above mentioned statutory notices issued u/s 142(1) of the Act. Thereafter, the Ld. AO issued a final show-cause notice to the assessee on 18.02.2022 as to why the assessee's case should not be decided on merit treating it as ex-parte and assessment proceedings are to be completed U/s. 144 of the I.T. Act 1961 on the basis of material available on record and requested to comply within three days from the receipt of the notice but again there was no compliance by the assessee. The Ld. AO therefore obtained the information from the bank authorities by invoking the provisions of section 133(6) of the Act. Thereafter, the Ld. AO completed the assessment proceedings U/s 144 of the Act on the basis of material available before him and in the absence of any source of cash deposit of Rs.1,33,48,085/- made in the assessee's savings bank account the Ld. AO treated it as unexplained money as per the provisions of section 69A r.w.s 115BBE of the Act and made the addition. Further, the Ld. AO also observed that the assessee has declared Rs.8,58,497/- as other income which is reduced by Rs.7,36,302/- by claiming expenses. On this aspect also, the Ld. AO did not accept the submissions of the assessee and brought to tax Rs. 8,58,497/- by treating it as an unexplained money U/s. 69A r.w.s 115BBE of the Act. Thus, the Ld. AO completed the assessment U/s. 144 of the Act and determined the total income at Rs.1,42,06,582/- and passed the assessment order U/s. 147 r.w.s 144 r.w.s 144B of the Act, dated

25/03/2022. Aggrieved by the order of the Ld. AO, the assessee preferred an appeal before the Ld. CIT(A)-NFAC.

5. On appeal, since there was no response from the assessee with respect to the hearing notices issued and in the absence of any representation on behalf of the assessee, the Ld. CIT(A)-NFAC passed the order ex-parte and dismissed the assessee's appeal by confirming the additions made by the Ld. AO. Aggrieved by the order of the Ld. CIT(A)-NFAC, the assessee is in appeal before the Tribunal by raising the following grounds of appeal:

- “1. The reopening of assessment is bad in law as the notice U/s. 148 dated 29/03/2021 was issued on 01/04/2021 without following the procedure prescribed under the new law effective from 01/04/2021 consequently the order passed U/s. 147 is null and void.*
- 2. The assessment unit, NFAC, Delhi is not justified in treating the deposits of Rs. 1,33,40,085/- cash deposited in the bank account of the assessee as unexplained money U/s. 69A of the Act and levying the tax thereon U/s. 115BBE of the Act.*
- 3. The Assessment Unit, NFAC, Delhi is not justified in treating the gross income of Rs. 8,58,497/- as unexplained money U/s. 69A and levying the tax thereon U/s. 115BBE of the Act.*
- 4. The period for which interest U/s. 234A is levied is not justified as it does not take into account the period during which it is not possible for the assessee to file a valid return of income.*
- 5. All the above grounds of appeal are mutually exclusive and without prejudice to one another.*
- 6. The appellant craves leave to add to, alter, amend, modify or delete all any of the above grounds of appeal.”*

6. At the outset, the Ld. Authorized Representative ["Ld. AR"] submitted before us that the Ld. CIT (A)-NFAC has passed ex-parte order without providing proper opportunity to the assessee of being heard. It was therefore pleaded that the matter may be remitted back to the file of the Ld CIT (A)-NFAC in order to provide one more opportunity to the assessee of being heard.

7. Ld. Departmental Representative ["Ld. DR"], on the other hand, vehemently opposed to the submissions of the Ld. AR and argued that several opportunities had been provided to the assessee however, on the given dates of hearing, neither the assessee nor his Representative has responded to the notices issued nor filed any details / submissions as called for by the Ld. CIT (A)-NFAC. It was further submitted that, under these circumstances, the Ld. CIT (A)-NFAC had no other option but to pass ex-parte order based on the materials available on record. Hence, it was pleaded that the order passed by the Ld. CIT(A)-NFAC does not call for any interference.

8. We have heard the both the sides and carefully perused the materials available on record. On examining the facts of the case, we find that the Ld. CIT (A)-NFAC had posted the case on several occasions. However, there was no response on behalf of the assessee before the

CIT(A)-NFAC on the dates of hearing with regard to the details / submissions as called for by the Ld. CIT(A)-NFAC. Therefore, the Ld. CIT (A)-NFAC was left with no other option except to adjudicate the appeal ex-parte and dismissed appeal in-limine. In this situation, considering the issues involved in the appeal, we are of the considered view that the Ld. CIT(A)-NFAC ought to have decided the case on merits instead of dismissing the appeal in-limine. However, considering the prayer of the Ld. AR, and in the interest of justice as well as strictly following the principles of natural justice, we hereby remit the matter back to the file of Ld. CIT (A)-NFAC in order to consider the appeal afresh and decide the case on merits by providing one more opportunity to the assessee of being heard in accordance with the principles of natural justice. At the same breath, we also hereby caution the assessee to promptly co-operate before the Ld. CIT (A)-NFAC in the proceedings failing which the Ld. CIT (A)-NFAC shall be at liberty to pass appropriate order in accordance with law and merits based on the materials available on the record. It is ordered accordingly.

9. In the result, appeal filed by the assessee is allowed for statistical purposes as indicated hereinabove.

Pronounced in the open Court on 25<sup>th</sup> September, 2024.

Sd/-

(एस बालाकृष्णन)

(S.BALAKRISHNAN)

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(दुव्वूरु आर.एल रेड्डी)

(DUVVURU RL REDDY)

न्यायिकसदस्य/JUDICIAL MEMBER

Dated :25/09/2024

OKK - SPS

आदेश की प्रतिलिपि अग्रेषित /Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee – Bapatla Mahila Mutually Aided Co-op. Thrift Society Limited, Plot No. 23, Vivekananda Colony, Bapatla, Andhra Pradesh-522101.
2. राजस्व/The Revenue – Income Tax Officer, Ward-1, O/o. ITO, 15-8-166, Lakshmi Nilayam, GBC Road, Andhra Pradesh-522101.
3. The Principal Commissioner of Income Tax,
4. आयकर आयुक्त (अपील)/ The Commissioner of Income Tax (Appeals),
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापटणम/ DR, ITAT, Visakhapatnam
6. गार्ड फ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary  
ITAT, Visakhapatnam