

आयकर अपीलीयअधिकरण, विशाखापटणम **SMC** पीठ, विशाखापटणम  
IN THE INCOME TAX APPELLATE TRIBUNAL,  
VISAKHAPATNAM **SMC** BENCH, VISAKHAPATNAM

श्री दुव्वूरु आर एल रेड्डी, न्यायिक सदस्य के समक्ष

BEFORE SHRI DUVVURU RL REDDY, HON'BLE JUDICIAL MEMBER

आयकर अपील सं./ I.T.A. No.276/Viz/2024  
(निर्धारण वर्ष / Assessment Year : 2023-24)

Donthemsetty Srisaila Mallikharjunarao, Eluru. PAN: ABMPD8453H (अपीलार्थी/ Appellant)	Vs.	The Income Tax Officer, Ward-1, Eluru.  (प्रत्यर्थी/ Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Smt. A. Aruna, AR
प्रत्यर्थी की ओर से / Respondent by	:	Dr. Aparna Villuri, Sr. AR
सुनवाई की तारीख / Date of Hearing	:	20/08/2024
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 Ld. Addl / JCIT (Appeals)-1, Pune in DIN & Order No. ITBA/APL/S/250/2024-25/1064967210(1), dated 17/05/2024 arising out of the order passed U/s. 143(3) of the Income Tax Act, 1961 ["the Act"] for the AY 2023-24.

2. Briefly stated the facts of the case are that the assessee is a retired bank employee and also a pensioner. During the AY 2023-

24, the assessee received a total amount of Rs. 23,62,760/- from Indian Bank (employer) which included his pension (salary) of Rs. 6,26,920/- and salary / family pension arrears of Rs. 17,35,768/-. The assessee filed his return of income for AY 2023-24 on 02/07/2023 admitting a total income of Rs. 23,12,760/- wherein the assessee computed the total tax payable at Rs. 36,457/- after claiming relief for an amount of Rs. 4,87,524/- U/s. 89 of the Act computed in respect of Rs. 17,35,768/- received towards salary / family pension arrears. As the employer of the assessee has already deducted the tax of Rs. 5,18,882/- at source, the assessee claimed refund of Rs. 4,82,425/-. Accordingly, the assessee uploaded the relevant Form-10E for the relief claimed U/s. 89 of the Act. Thereafter, the CPC processed the return and issued the intimation U/s. 143(1) of the Act on 02/01/2024. In the intimation U/s. 143(1), the CPC accepted the income admitted by the assessee, the tax computed and also the relief claimed by the assessee U/s. 89 of the Act. However, the CPC computed the allowable credit towards tax deducted at source at only Rs. 1,53,443/- by invoking Rule 37BA of the Income Tax Rules, 1962 and determined the refund at Rs. 1,22,830/- as against the assessee claim of refund of Rs. 4,82,430/-. Thus, the CPC did not allow the TDS credit to the

extent of Rs. 3,59,600/-. Aggrieved by the order of the Ld. AO / CPC, the assessee preferred an appeal before the Ld. CIT(A)-NFAC.

3. On appeal, the Ld. Addl / JCIT (Appeals)-1, Pune, considered the submissions of the assessee and directed the Ld. AO to verify the total receipts shown in 26AS and ITR and give credit of TDS to the assessee if the corresponding income has been offered for taxation in his income tax return in the relevant year after verification. Thus, the Ld. Addl / JCIT (Appeals)-1, Pune partly allowed the appeal of the assessee. Aggrieved by the order of the Ld. Addl / JCIT (Appeals)-1, Pune, the assessee is in appeal before the Tribunal by raising the following grounds of appeal:

- “1. *The order of the Ld. CIT(A) is contrary to the facts and also the law applicable to the facts of the case.*
2. *The Ld. CIT(A) ought to have held that the granting lesser credit for TDS is outside the scope of adjustments that can be made in the intimation U/s. 143(1) of the Act.*
3. *The Ld. CIT(A) ought to have directed the AO to grant credit for entire TDS of Rs. 5,18,882/- instead of remitting the matter with an ambiguous direction.*
4. *Any other grounds may be urged at the time of hearing.”*

4. At the outset, the Ld. AR submitted that the assessee has received arrears of salary and family pension and only after

deducting the TDS by the employer the assessee received the amount as pension. The Ld. AR further submitted that this fact is clearly indicating in Form 26AS. However, the Ld. AO / CPC has not considered the same. The Ld. AR further submitted that the assessee is also eligible to claim relief U/s. 89 of the Act but the Ld. Revenue Authorities have not considered the same. The Ld. AO therefore pleaded before the Bench to set-aside the orders passed by the Ld. Revenue Authorities.

5. On the other hand, the Ld. DR submitted that after considering the submissions of the assessee, the Ld. Addl / JCIT (Appeals)-1, Pune remitted the matter back to the file of the Ld. AO with a direction to examine the claim of the assessee along with the documentary evidence and pass appropriate orders and therefore the Ld. DR pleaded that there is no infirmity in the order of the Ld. Addl / JCIT (Appeals)-1, Pune and prayed to uphold the orders of the Ld. Revenue Authorities.

6. I have heard both the sides and perused the orders of the Ld. Revenue Authorities as well as the material available on record. On perusal of the orders of the Ld. Revenue Authorities, *prima facie* it appears that the assessee has received the arrears of salary and family pension only after deducting the TDS by the

employer. That means the entire TDS amount was deducted but the Ld. AO / CPC has not considered the same while passing the intimation U/s. 143(1) of the Act. Therefore, considering the facts and circumstances of the case, I am of the view that it is a fit case to remit the matter back to the file of the Ld.AO to examine the issue and pass a fresh speaking order considering the evidences filed by the assessee viz., 26AS, Form No. 10E etc as well as the material available on record. The assessee also hereby directed to submit all the relevant documents before the Ld. AO to establish that the entire TDS amount was credited and is also eligible for grant of relief U/s. 89 of the Act. Thus, the grounds raised by the assessee are allowed for statistical purposes.

7. In the result, appeal filed by the assessee is allowed for statistical purposes as indicated herein above.

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

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 – Donthemsetty Srisaila Mallikharjunarao, D.No. 3-5-54, Madavari Lane, Western Street, Eluru, Andhra Pradesh-534001.
2. राजस्व/The Revenue – The Income Tax officer, Ward-1, O/o. ITO, KKS Towers, RR Pet, Eluru, Andhra Pradesh-534002.
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