

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  
**(Through Hybrid Hearing)**

आयकर अपील सं./ I.T.A. No.305/Viz/2024  
(निर्धारण वर्ष / Assessment Year : 2017-18)

Anuradha Reddy, Gudivada. PAN: BABPR5333M (अपीलार्थी/ Appellant)	Vs.	The Income Tax Officer, Ward-1, Gudivada. (प्रत्यर्थी/ Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Sri M.V. Prasad, AR
प्रत्यर्थी की ओर से / Respondent by	:	Dr. Aparna Villuri, Sr. AR
सुनवाई की तारीख / Date of Hearing	:	09/09/2024
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 Ld. CIT(A)-NFAC in DIN & Order No. ITBA/NFAC/S/250/2024-25/1065483893(1), dated 7/6/2024 arising out of the order passed U/s. 144 of the Income Tax Act, 1961 ["the Act"] for the AY 2017-18.

2. Briefly stated the facts of the case are that the assessee is an individual. As per the information available with the

Department, the Ld. AO observed that the assessee made cash deposits in her Karur Vysya Bank, Gudivada account during demonetization period to the tune of Rs. 34 lakhs. Subsequently, the Ld. AO issued a notice U/s. 142(1) of the Act and the assessee was called for filing the return of income for the AY 2017-18. Since there assessee has not responded to the above notice, the Ld. AO issued another notice U/s. 142(1) of the Act and the assessee was asked to furnish certain information. Further, the assessee was also asked to furnish the sources of cash deposits made during the demonetization period and also to substantiate the same with evidence by issuing a show cause notice dated 16/09/2019. Further, the Ld. AO also obtained the information from bank authorities U/s. 133(6) of the Act. Later on, the assessee filed a letter dated 23/09/2019 furnishing the copy of return of income for AY 2017-18 in which the business income of the assessee was admitted at Rs. 5,50,000/- on gross receipts of Rs. 45 lakhs and also the income from other sources at Rs. 36,297/-. Further, the assessee also furnished the sale deeds and purchase deeds of his land property before the Ld. AO. However, the Ld. AO observed that the assessee has no explanation to offer the nature and source of such cash deposits and therefore the explanation given by the assessee is not

satisfactory. The Ld. AO also observed that the assessee failed to furnish the full and complete details of the business carried out during the year and the nexus between the cash deposits and the business receipts as claimed by her except furnishing certain sale and purchase documents of land. The Ld. AO also observed that the sale and purchase documents produced do not tally with the dates of cash deposits made in the above bank account as to the date of the sale consideration received and therefore, the Ld. AO considered that the assessee's cash deposits are not fully and properly explained as to its source on the dates of deposits and therefore the entire deposits are treated as unexplained income of the assessee U/s. 69A of the Act and brought to tax under the head 'income from other sources'. Thus, the Ld. AO made addition of Rs. 34,00,000/- U/s. 69A r.w.s 115BBE of the Act and also initiated the penalty proceedings U/s. 271F and U/s. 271AAC of the Act and passed the assessment order U/s. 144 of the Act dated 31/12/2019. Aggrieved by the order of the Ld. AO, the assessee preferred an appeal before the Ld. CIT(A)-NFAC.

3. 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 addition 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 Ld. CIT(A) is erred in facts and law while passing the order.
2. On the facts and circumstances of the case, the Ld. CIT(A) is not justified in confirming the addition made of Rs. 34 lakhs U/s. 69A of the Act.
3. On the facts and circumstances of the case, the Ld. AO erred in law in finalizing the assessment ex-parte U/s. 144 of the Act without obtaining the instructions U/s. 144 of the Act and hence such assessment is invalid before the eyes of law.
4. On the facts and circumstances of the case, the Ld CIT (A) is not justified in dismissing the primarily on the pretext that there was no compliance from the appellant to various notices of hearing even though the appellant sought for adjournment to furnish the arguments and therefore, would have accorded further opportunity.
5. On the facts and circumstances of the case, the Ld. AO erred in completing the assessment without issuing the notice U/s. 143(2) of the Act having accepted the income returned and hence the assessment made is invalid.
6. On the facts and circumstances of the case, the Ld. CIT(A) ought to have appreciated that AO erred in not considering the fact that such deposits in the bank account are nothing but represent the gross business receipts wherein the appellant has already declared profit out of such receipts and thus adding the entire bank deposits again amounts to double addition and unreasonable.
7. On the facts and circumstances of the case, the Ld. CIT(A) is not justified in adjudicating all the grounds of appeal basing on the brief facts of the case mentioned in the appeal memo since they do not indicate the entire facts and they are only suggestive that the cash deposits represents the sale consideration in real estate business carried on by the appellant.
8. On the facts and circumstances of the case, the Ld. CIT(A) ought to have accorded a further opportunity to furnish the detailed explanation since the appellant has stated that the deposits in the bank account have explainable sources.
9. Any other legal and factual ground that may be urged at the time of hearing of the appeal.”

4. 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.

5. 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.

6. I have heard the both the sides and carefully perused the materials available on record. On examining the facts of the case, I 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)-NAFC 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, I am 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, I 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, I 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.

7. 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/-  
(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 – Anuradha Reddy, D.No. 9-18, Srirampuram, Gudivada, Krishna District-521301.
2. राजस्व/The Revenue – The Income Tax Officer, Ward-1, Opp. Bhaskar Talkies, Gudiwada, Andhra Pradesh-521301.
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

