

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

**IN THE INCOME TAX APPELLATE TRIBUNAL
VISA KHAPATNAM BENCH, VISA KHAPATNAM**

**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. 372/VIZ/2024
(निर्धारण वर्ष/ Assessment Year: 2013-14)**

Kona Shanthi Kumari 2-64/2, Kommanapalli Tuni, Kakinada – 533449 Andhra Pradesh [PAN : DWBPK4623P]	v.	Assessment Unit Income Tax Department NFAC, Delhi
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)

करदाता का प्रतिनिधित्व / Assessee Represented by	:	Shri Govinda Raju, AR
राजस्व का प्रतिनिधित्व / Department Represented by	:	Dr. Aparna Villuri, CIT(DR)
सुनवाई समाप्त होने की तिथि / Date of Conclusion of Hearing	:	17.10.2024
घोषणा की तारीख/Date of Pronouncement	:	23.10.2024

आदेश / O R D E R

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/250/2024-25/1066519636(1) dated 09.07.2024 arising out of

order passed Under section 147 r.w.s. 144B of the Income Tax Act, 1961 (in short 'Act') dated 27.03.2022 for the A.Y. 2018-19.

2. Brief facts of the case are that, assessee is an individual and has not filed her return of income for the A.Y. 2018-19. Assessing Officer observed that assessee has purchased 2.66 Acres of immovable property at Kommanapalli, Thondangi Mandal for a consideration of Rs. 13,50,000/- by way of cash and assessee failed to explain the sources, the sum of Rs. 13,50,000/- remains unexplained. The case was reopened for re-assessment under section 147 of the Act after obtaining prior approval of the competent authority. Notice under section 148 of the Act dated 31.03.2022 was issued and served on assessee. In response, assessee filed the return of income admitting a total income of Rs.8,50,000/-. Subsequently, Statutory notices under section 143(2) and 142(1) of the Act were issued calling for certain information. In response, assessee furnished details as called for and vide letter dated 13.03.2023 submitted that assessee undertaking tuition classes for school & Intermediate students in Mathematics & Computer Science subjects and derives incomes from tuition fees and has purchased the immovable property out of the savings and investment made through her husband. Not convinced with the submissions of the assessee, Assessing Officer proceeded to complete the assessment by observing that the contention of the assessee could not be accepted as it is not supported by any

evidences. Accordingly, he completed assessment proceedings by determining the income of the assessee at Rs. 13,50,000/-.

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 his 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 and dismissed the appeal of the assessee.

4. On being aggrieved, assessee preferred an appeal before me and raised following grounds of appeal: -

“1. That the Impugned Orders U/s. 147 r.w.s. U/w. 144B of the Income Tax Act, 1961 passed by the Ld. Assessment Unit, NFAC, Delhi (i.e. Ld. Assessing Officer) and Appellate Order Us. 250 of the Income Tax Act, 1961 passed by the Ld. CIT (Appeals), National Faceless Appeal Centre (NFAC), Delhi i.e. Ld. First Appellate authority) in so far as it is prejudicial to the interests of the Appellant is bad and erroneous in law and is against the facts and circumstances of the case.

2. The Ld. Commissioner of Income Tax (Appeals), NFAC, Delhi has also erred in confirming the reopening of the Assessment by Ld. Assessing Officer. The conditions precedent for issue of notice u/s. 148 of IT. Act, 1961 having not been satisfied, the reopening of assessment was bad in law and hence the Ld. Commissioner of Income tax (Appeals) should have instead of confirming the assessment order, quashed the reopening of assessment.

3. In any case, the Ld. Commissioner of Income Tax (Appeals), NFAC, Delhi has erred in confirming the addition made by the Ld. Assessing officer amounting to Rs. 13,50,000/- on account of purchase of Immovable Property as undisclosed investments U/s. 69 of the IT Act. The addition 'as made/confirmed is without any basis and is liable to be deleted.

4. *The Ld. Assessing Officer had also erred in holding that provision of Section 115BBE of the I.T. Act, would apply to the above addition and the Ld. CIT (A) has erred confirming in the same. On the proper appreciation facts and law applicable, the provisions of Section 115BBE will be not applicable, the calculation of tax @ 60% U/s. 115BBE of the I.T. Act, 1961 being wholly erroneous is to be deleted.*

5. *In view of the above and on the grounds to be adduced at the time of the hearing, it is requested that the impugned orders passed be quashed or at least the additions as made/confirmed be deleted, levy of taxes at special rates u/s 115BBE be deleted and the interest levied be also deleted."*

6. *The Appellant craves leave to add, amend or alter, vary and/or withdraw any of the above grounds of Appeal at the time of hearing of the Appeal without prejudice to one another, The Appellant wishes to be personally heard before any decision is taken in this matter. The Appellant prayed this Hon'ble ITAT, Visakhapatnam Bench to Pass Orders as may be deemed fit and proper in the facts and circumstances of the case."*

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 the Ld.CIT(A). Therefore, the order passed by Ld. CIT(A) is exparte order and pleaded to confirm the orders passed by the Revenue Authorities.

7. Heard both the 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 view 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 23rd October, 2024.

Sd/-
(दुव्वूरु आर.एल रेड्डी)
(DUVVURU RL REDDY)
न्यायिक सदस्य/JUDICIAL MEMBER
Dated :. 23.10.2024
Giridhar, Sr.PS

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

1. निर्धारिती / The Assessee : **Kona Shanthi Kumari**
2-64/2, Kommanapalli
Tuni, Kakinada – 533449
Andhra Pradesh
2. राजस्व / The Revenue : **Assessment Unit**
Income Tax Department
NFAC, Delhi
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