

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**

&

SHRI S BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER

**आयकर अपील सं./I.T.A. No. 371/VIZ/2024
(निर्धारण वर्ष/ Assessment Year: 2013-14)**

Subbarao Jaladi 3-34, Pasumarru Village Chilakaluripet Mandal Guntur – 522616, Andhra Pradesh [PAN : ACTPJ9648L]	v.	INCOME-TAX OFFICER- WARD-2(1) Income-Tax Office Lakshmipuram Main Road Guntur- 522006
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)

करदाता का प्रतिनिधित्व / Assessee Represented by	:	Shri C. Subrahmanyam, AR
राजस्व का प्रतिनिधित्व / Department Represented by	:	Dr. Satyasai Rath, 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/250/2024-25/1067585179(1) dated 13.08.2024 arising out of order passed Under section 147 r.w.s. 144 of the Income Tax Act, 1961 (in short 'Act') dated 09.03.2022 for the A.Y. 2013-14.

2. Brief facts of the case are that, assessee is an individual and engaged in the business of "buffalo mundy commission agent". Assessee has not filed his return of income for the A.Y. 2013-14. Assessing Officer received information through ITBA under the case Type "Non Filers under Multi years NMS" & Priority P1. On verification, the assessee has made the following transactions: -

- i. Deposit In Cash aggregating Rs. 2,00,000/- or more, with a banking Company Valued at Rs. 5,28,40,000/-.
- ii. Deposited Cash of Rs. 10,00,000 or more in a Saving Bank Account Valued at Rs. 4,24,50,900/-.
- iii. TDS Return - Payment to Contractor (Section 194C) Valued at Rs. 5,03,950/-

3. Assessing Officer observed that as per the information available in this office, the assessee has made huge cash deposits to the tune of Rs. 9,52,90,900/- during the year under consideration. As the assessee has not filed his return of income for the year under consideration, the source for cash deposits made by the assessee is unexplained and accordingly Assessing Officer has reason to believe that income chargeable to tax of Rs.9,57,94,850/- has escaped assessment within the meaning of provisions of Sec.147 of the Act. Assessing Officer reopened the assessment by issue of notice under section 148 of the Act after obtaining the

approval from Pr.Commissioner of Income Tax. In response to notice under section 148 of the Act, the assessee filed his return of income on 30.04.2021 declaring total income of Rs. 4,19,370/-. Subsequently, statutory notices under section 143(2) and 142(1) of the Act were issued and served on the assessee. In response, assessee filed written submissions vide letters dated 07.12.2021, 04.02.2022 & 14.02.2022 and furnished copy of bank statements, copy of Audit report, details of month-wise cash deposits, Balance-sheet, Profit & Loss Account and Audit report. Not convinced with the submissions of the assessee, Assessing Officer proceeded to complete the assessment by observing that assessee could not produce any sales/purchase bills during the assessment proceedings and failed explain the source of credit and cash deposits with supporting evidence. Accordingly, he completed assessment proceedings by determining the income of the assessee at Rs. 9,18,57,770/-.

4. 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.

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

“1. That under the facts and circumstances of the case and in law, the order u/s 147r.w. 144 r.w. 144B of the IT Act, dt. 09.03.2022, as upheld by the Ld. CIT(A), NFAC vide orders passed u/s 250 dt. 13.08.2024, are contrary to the facts of the case and the provisions of law.

2. The CIT(A) (NFAC) dismissed the case ex-parte without giving a reasonable opportunity to present the appellant's case. This action violates the fundamental principles of natural justice.

3. The Id. CIT(A) disposed of the case without giving any findings on the merits of the appellant's submissions. This is against the provisions of Section 250(6) of the Income Tax Act, which mandate reasoned decisions based on facts and law.

4. The learned CIT (A) ought to have appreciated the fact that when assessee has explained the sources before the AO for the deposits made in bank account, with cogent reasons, the learned CIT(A) should have deleted the addition made under section 69A of the IT Act.

5. For these and other reasons that may be urged at the time of hearing, the appellant prays that the orders passed u/s 250 of the Income Tax Act be set aside and the additions made by the Assessing Officer be deleted.

6. At the outset, Ld. Authorised Representative [hereinafter “Ld.AR”] submitted that Assessing Officer as well as the 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).

7. 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 Assessing Officer as well as 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.

8. We have heard both the sides and perused the material available on record. On a perusal of the assessment order and Ld.CIT(A) order, it is observed that even though Assessing Officer as well as 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, we are of the considered 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, we are 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.

9. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 23rd October, 2024.

Sd/-

(एस बालाकृष्णन)

(S. BALAKRISHNAN)

लेखा सदस्य /ACCOUNTANT MEMBER

Dated :. 23.10.2024

Giridhar, Sr.PS

Sd/-

(दुव्वूरु आर.एल रेड्डी)

(DUVVURU RL REDDY)

न्यायिक सदस्य/JUDICIAL MEMBER

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

1. निर्धारिती / The Assessee : **Subbarao Jaladi**
3-34, Pasumarru Village
Chilakaluripet Mandal
Guntur – 522616, Andhra Pradesh
2. राजस्व / The Revenue : **INCOME-TAX OFFICER- WARD-2(1)**
Income-Tax Office
Lakshmipuram Main Road
Guntur- 522006
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