

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

**IN THE INCOME TAX APPELLATE TRIBUNAL
VISAKHAPATNAM BENCH, VISAKHAPATNAM**

**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. 369/VIZ/2024
(निर्धारण वर्ष/ Assessment Year: 2015-16)**

THE SOCIETY OF JESUS MARY JOSEPH SNEHALAYA 7-597/A, New Bank Colony, Mangalagiri Guntur - 522503 Andhra Pradesh [PAN : AAATT2381H]	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 I. Kama Sastry, AR
राजस्व का प्रतिनिधित्व / Department Represented by	:	Dr. Aparna Villuri, Sr.AR
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/250/2024-25/1066578063(1) dated 10.07.2024 arising out of order passed Under section 147 r.w.s. 144 of the Income Tax Act, 1961 (in short 'Act') dated 08.12.2023 for the A.Y. 2015-16.

2. Brief facts of the case are that, assessee is registered under Societies Registration Act, 1860 and also got registered under section 12A of IT Act, 1961 vide proceedings of CIT, Guntur No. 1/137/GNT/87-88 dated 28.12.1990. Specific information was flagged as per Risk Management Strategy formulated by the CBDT through Insight Portal under the head 'NMS cases' and as per the information received by the Assessing Officer, the assessee has carried out following transactions during the financial year 2014-15, relevant to the assessment year 2015-16:

- i. Cash Deposits amounting to Rs. 1,23,92,500/-
- ii. Time Deposit amounting to Rs. 2,54,818/-
- iii. Interest Receipts amounting to Rs. 30,470/-

3. However, assessee has not filed return of income u/s 139 of the Act for A.Y. 2015- 16. Accordingly, the case was reopened by issue of notice under section 148 of the Act dated 08.04.2022 after passing order under section 148A(d) of the Act. The assessee has not filed return of income in response to notice issued under section 48 of the Act and also no submission is made in response to other notices issued by the Assessing Officer. Thereafter, Assessing Officer proceeded

to complete the assessment by determining the income of the assessee at Rs.1,26,77,780/- comprising of Rs. 1,23,92,500/- as unexplained money u/s 69A, addition of Rs. 2,48,818/- as unexplained investment u/s 69 of the Income-Tax Act, 1961 and addition of Rs. 30,470/- as income from other sources. Further, Assessing Officer levied a tax of Rs. 1,31,54,351/-.

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 its 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. The notice issued under section 148 dated 13.04.2022 is barred by limitation as per the proviso to section 149(1)(b) [new section w.e.f. 01.04.2021] being beyond six years from the end of the relevant assessment year.

2. The show cause notice under section 148A(b) dated 17.03.2022 is invalid as the same has not given 7 clear days for compliance, consequently the entire reassessment proceedings are invalid and void ab initio.

3. The notice under section 148 dated 08.04.2022 issued by the Income-tax Officer, Ward-2(1), Guntur is invalid for the reason that:

i. The notice has been issued by the jurisdictional Assessing Officer instead of by the National Faceless Assessment Centre as mandated by the e assessment of income escaping assessment scheme.

ii. The notice is issued with prior approval of Pr. CCIT, AP & Telangana, Hyderabad, whereas no such approval is needed for

notices issued on or after 01.04.2022 where order under section 148A(d) is passed with the prior approval of the specified authority

iii. The copy of the approval of the specified authority is not furnished to the assessee till date though the same is mandated by the CBDT guidelines for issue of notices under section 148.

4. The Assessment Unit, National Faceless Assessment Centre is not justified and the CIT(Appeals), National Faceless Appeal Centre is not justified in confirming the determination of Rs.1,26,77,788/- as taxable income of the assessee by treating the following amounts as income of the assessee : Deposits in Bank 1,23,92,500; Time deposits in bank 2,54,818 AND Interest Income 30,470 totalling Rs.1,26,77,788.

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; delete all or any of the above grounds of appeal.”

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 she 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 : THE SOCIETY OF JESUS MARY JOSEPH SNEHALAYA
7-597/A, New Bank Colony, Mangalagiri
Guntur - 522503Andhra 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