

**आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम**

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

**श्री दुव्वूरु आर एल रेड्डी, न्यायिक सदस्य  
BEFORE SHRI DUVVURU RL REDDY, HON'BLE JUDICIAL MEMBER**

**आयकर अपील सं./I.T.A. No. 411/VIZ/2024  
(निर्धारण वर्ष/ Assessment Year: 2017-18)**

Ratna Kumari Koppisetty 3-11-A/3, Recharlapeta Military Colony Kakinada, Andhra Pradesh 533001  [PAN: ASDPK7729B]	v.	Income Tax Officer – Ward – 1 Income Tax Office, 11-11-1 3 <sup>rd</sup> Floor, Sanjivi Hospital Complex Ramaraopeta – 533004 Andhra Pradesh
(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	:	04.11.2024
घोषणा की तारीख / Date of Pronouncement	:	05.11.2024

**आदेश / ORDER**

**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), National Faceless Appeal Centre (NFAC), Delhi [hereinafter in short “Ld.CIT(A)”], in DIN & Order No. ITBA/APL/S/250/2024-25/1065273515(1) dated 30.05.2024 arising out of order

passed Under section 143(3) of Income Tax Act, 1961 (in short 'Act') dated 15.12.2019 for the A.Y. 2017-18.

2. At the outset, it is noticed from the appeal record that there is a delay of 54 days in filing the appeal before the Tribunal. Explaining the reasons for belated filing of the appeal, the Ld. Authorised Representative [hereinafter "Ld.AR"] drew attention to the affidavit filed by the assessee along with a petition seeking for condonation of delay and read out the contents of the petition which is as under: -

*"1. That for the assessment year 2017-18 an appeal has been filed before the CIT(Appeals), National Faceless Assessment Centre through a consultant at Kakinada.*

*2. That all the notices for hearing have been sent by the Ld.CIT(Appeals) to the e mail id of my consultant also.*

*3. That I was under the impression that the consultant is attending to the proceedings.*

*4. That the Ld. CIT(Appeals) has passed an order under section 250 dismissing my appeal for non-prosecution.*

*5. That the order of the Ld. CIT(Appeals) is dated 30.05.2024.*

*6. That I have not been informed about the order by my consultant and I came to know about the same when I received a phone call from the department some - time in the first week of September, 2024 regarding payment of arrear demand.*

*7. That immediately thereafter I approached my consultant who directed me to approach Mr. I. Kamasastry, Chartered Accountant for filing an appeal before the Honourable Tribunal.*

*8. That an appeal ought to have been filed before the Honourable Tribunal on or before 29.07.2024. But the same is now filed with a delay of 54 days,*

9. That I have been diagnosed with sepsis; pneumonia; type II diabetes; hypertension; anaemia and osteoarthritis on 29.07.2023 and admitted to hospital. I was discharged on 05.08.2023. Since then I am regularly getting checked and the latest check up is on 01.10.2024.

*The Honourable Tribunal is kindly requested to condone the delay in filing the appeal as the same is not due to any negligence or laches on my part.”*

3. On perusal of the contents of the affidavit filed by the assessee and medical records as well as the submission of the Ld. AR, it is found that the assessee is prevented by a reasonable and sufficient cause in filing the appeal beyond the prescribed time limit with a delay of 54 days. Therefore, the delay of 54 days in filing the appeal before the Tribunal is condoned.

4. Briefly stated facts of the case are that, assessee is an individual, engaged in the business as Kerosene dealers in Rajahmundry. Assessee filed her return of income for the A.Y.2017-18 on 22-03-2018, admitting a total income of Rs.4,15,270/- besides agricultural income of Rs.45,000/-. The sources of income of the assessee are ‘Income from house property and other sources’. Subsequently, the case was selected for scrutiny under CASS “Limited Category” to verify the sources for “Cash deposits during demonetisation period”. Accordingly, statutory notices under section 143(2) and 142(1) of the Act were issued and served on the assessee, calling for detailed information relating to the cash deposited during demonetisation period for the F.Y.2016-17 relevant to the A.Y.2017-18. In response, assessee submitted that the cash deposited in bank accounts during demonetisation period are out of the sale of kerosene to various

ration depot dealers and amounts received in cash are transferred to Oil Corporation Ltd., by way RTGS. Assessee further submitted that she got IOC dealership for supply of kerosene and the kerosene is sold to various ration dealers as per Govt. fixed rates. Ld. AO on perusal of the bank accounts held by the assessee with Union Bank(A/c.No.573001010050095) and Andhra Bank(A/c.No.002311100000894) noticed that there are cash deposits at Rs.14.69 lakhs and Rs.1,07,91,150 respectively. Thus, the total cash deposits in both the bank accounts put together were at Rs.1,22,60,150. Ld. AO observed that assessee could not produce details relating to the basis for arriving at the income. Accordingly, Ld. AO proceeded to complete the assessment by considering the normal gross profit in this line of trade and determined the income of the assessee at Rs.14,02,250/ by making addition of Rs.9,86,980/- being 8% of Rs.1,23,37,238/- under “income from business”.

5. 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 her contentions as per the grounds of appeal raised by her. Therefore, the Ld. CIT(A) disposed off this appeal based on the merits available on record.

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

“1. The Income-tax Officer, Ward-1, Kakinada is not justified in bringing to tax business income by estimating the same which is beyond the scope of the issues for which the case of the assessee is selected for limited scrutiny under CASS. The Adl/JCIT(Appeals)- Mumbai is not justified in confirming the same.

2. The Income-tax Officer, Ward-1, Kakinada is not justified in estimating the assessee's income from business of dealership of kerosene supply to retail dealers at a very high per centage of 8% that too without bringing on record any comparable cases and the Adl/JCIT(Appeals)-Mumbai is not justified in confirming the same.

3. The Income-tax Officer, Ward-1, Kakinada is not justified in not setting off the business income of Rs.3,14,470/- returned by the assessee erroneously under the head income from other sources against the estimated business income of Rs.9,86,980 and the Adl/JCIT(Appeals)-Mumbai is not justified in confirming the same.

4. All the above grounds of appeal are mutually exclusive and without prejudice to one another.

5. The appellant craves leave to add to; alter; amend; modify or delete all or any of the above grounds of appeal.”

7. At the time of hearing, 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).

8. 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 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.

9. Heard both sides and perused the material available on record. On a perusal of the Ld.CIT(A) order, it is observed that even though the 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 opinion 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.

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

Order pronounced in the open court on 5<sup>th</sup> November, 2024.

Sd/-  
(दुव्वूरु आर.एल रेड्डी)  
(DUVVURU RL REDDY)  
न्यायिक सदस्य/JUDICIAL MEMBER  
Dated : 05.11.2024  
Giridhar, Sr.PS

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

1. निर्धारिती / The Assessee : Ratna Kumari Koppisetty  
3-11-A/3, Recharlapeta  
Military Colony  
Kakinada, Andhra Pradesh 533001
2. राजस्व / The Revenue : Income Tax Officer – Ward – 1  
Income Tax Office, 11-11-1  
3<sup>rd</sup> Floor, Sanjivi Hospital Complex  
Ramaraopeta – 533004  
Andhra Pradesh
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