

आयकर अपीलिय अधिकरण, विशाखापटणम SMC पीठ, विशाखापटणम

IN THE INCOME TAX APPELLATE TRIBUNAL,
VISAKHAPATNAM "SMC" BENCH, VISAKHAPATNAM

श्री के नरसिम्हा चारी, न्यायिक सदस्य के समक्ष
BEFORE SHRI K. NARASIMHA CHARY, JUDICIAL MEMBER

आयकर अपील सं./ I.T.A. No.236/Viz/2024

(निर्धारण वर्ष / Assessment Year : 2017-18)

Sri Lakshmi Durga Distributors,
23-10-14, Purushottam Street,
Lakshminagar, S.O., Vijayawada
(Urban), Krishna District, Andhra
Pradesh-520011.
PAN: ADCFS7219Q
(अपीलार्थी/ Appellant)

Vs. Income Tax Officer,
Ward-3(1),
C.R. Building, 1st Floor
Annex, MG Road,
Vijayawada, Krishna District,
Andhra Pradesh-520002.
(प्रत्यर्थी/ Respondent)

निर्धारिती द्वारा/ Assessee by:

No Representation (Sri
ASRSS Siva Prasad, AR)

राजस्व द्वारा/ Revenue by:

Dr. Aparna Villuri, Sr. AR

सुनवाई की तारीख/ Date of hearing:

07/11/2024

घोषणा की तारीख/ Pronouncement on:

12/ 11/2024

ORDER

PER K. NARASIMHA CHARY, Judicial Member :

Aggrieved by the order dated 28/08/2023 passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi ("learned CIT(A)"), in the case of Sri Lakshmi Durga Distributors ("the

assessee”) for the assessment year 2017-18, the assessee preferred this appeal.

2. Briefly stated the facts of the case as culled out from the records are that the assessee, being a partnership firm, was trading in Fast Moving Consumer Goods(FMCG). The assessee did not file its return of income for the AY: 2017-18, but the learned Assessing Officer [“learned AO”] found certain deposits in the bank accounts held by the assessee. According to the learned AO, the total deposits were to the tune of Rs. 1,42,90,855/- out of which a sum of Rs. 9,47,000/- was in Specified Bank Notes [“SBNs”]. The learned Assessing Officer issued notice U/s. 142(1) of the Income Tax Act, 1961 [“the Act”] and stated that the assessee did not respond to any of the notices and therefore, the learned Assessing Officer proceeded to assess the income of the assessee ex-parte. In the order dated 28/12/2019 passed U/s. 144 of the Act, the learned Assessing Officer noted that the total turnover of the assessee as per the VAT returns was Rs. 1,38,10,152/- of which the learned Assessing Officer estimated the income @ 8% and thereby reached a sum of Rs. 11,04,812/- and added the same to the total income of the assessee. So also, the learned Assessing Officer added a sum of Rs. 9,47,000/- which was deposited in SBNs.

3. Aggrieved, the assessee preferred an appeal before the learned CIT(A)-NFAC. But, according to the learned CIT(A)-NFAC, there were no reasons to interfere with the order passed by the learned Assessing Officer inasmuch as the assessee failed to appear and put forth its case, and the material on record holds good to support the findings of the learned Assessing Officer only. The learned CIT(A)-NFAC accordingly confirmed the addition made by the learned Assessing Officer U/s. 69A of the Act and dismissed the appeal.

4. Therefore, the assessee preferred this appeal stating that estimation @ 8% on the turnover was huge and treating the cash of Rs. 9,47,000/- as unexplained money is also unreasonable.

5. Before me, it is the submission of the Revenue that the assessee failed to appear and put forth its case before both the learned Revenue Authorities and also the assessee failed to conduct its appeal diligently. Therefore, the learned DR prayed to dismiss the appeal of the assessee.

6. I have gone through the record in the light of the submissions made on either side. In the Assessment Order, the learned Assessing Officer noted that the total deposits made in the bank accounts of the assessee were to the tune of Rs. 1,42,90,855/- and the VAT returns show that the total turnover of the assessee @ Rs. 1,38,10,152/-. While estimating the income @ 8% on Rs. 1,38,10,152/-, the learned Assessing Officer failed to consider the cash deposits subsumed in the turnover of Rs. 1,38,43,855/- . If I go by the logic of the learned Assessing Officer and estimate has to be made on the total turnover, what is left after reducing the total deposits by the turnover is only Rs. 4,80,703/- and not Rs. 9,47,000/- because the learned Assessing Officer accepted the turnover of the assessee @ Rs. 1,38,10,152/-. I, therefore, direct the learned Assessing Officer to delete a sum of Rs. 4,66,297/- which is included in the turnover.

7. Coming to the estimate @ 8%, there is no material on record to support the same and the learned Assessing Officer did not refer to any figures to show that in the line of business of the assessee, the income is @ 8%. Taking judicial notice of the matter, I am of the considered view that estimate @ 4% will meet the ends of justice. I, therefore, direct the learned Assessing Officer to estimate the income of the assessee @ 4% on Rs. 1,38,10,152/-. Grounds are answered accordingly.

8. In the result, appeal of the assessee is allowed in part in the above terms.

Pronounced in the open Court on 12th November, 2024.

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Dated :12/11/2024

OKK - SPS

आदेश की प्रतिलिपि अग्रेषित/Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee – Sri Lakshmi Durga Distributors, 23-10-14, Purushottam Street, Lakshminagar, S.O., Vijayawada (Urban), Krishna District, Andhra Pradesh.
2. राजस्व/The Revenue – Income Tax Officer, Ward-3(1),C.R. Building, 1st Floor Annex, MG Road, Krishna District, Andhra Pradesh.
3. The Principal Commissioner of Income Tax,
4. आयकर आयुक्त (अपील)/ The Commissioner of Income Tax
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापटणम/ DR, ITAT, Visakhapatnam
6. गार्ड फ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam