

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ में
IN THE INCOME TAX APPELLATE TRIBUNAL
VISAKHAPATNAM BENCH, VISAKHAPATNAM

BEFORE

SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER
&
SHRI BALAKRISHNAN S, ACCOUNTANT MEMBER

आ.अपी.सं / ITA No.420 & 421/Viz/2024
(निर्धारण वर्ष / Assessment Year: 2021-22)

Anga Vikranth Varma Visakhapatnam [PAN : BCCPA7896R]	Vs.	Income Tax Officer Ward-2(1) Visakhapatnam
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Shri G.V.N.Hari, AR
राजस्व द्वारा/Revenue by: Dr.Aparna Villuri, DR

सुनवाई की तारीख/Date of hearing: 18/11/2024
घोषणा की तारीख/Pronouncement on: 21/11/2024

आदेश / ORDER

PER K. NARASIMHA CHARY, J.M:

Aggrieved by the orders dated 29/07/2024 and 07/08/2024 passed by the learned Commissioner of Income Tax (Appeals), (“learned CIT(A)”), in the case of Anga Vikranth Varma (“the assessee”) for the assessment year 2021-22, assessee preferred these appeals with the delay of one day in ITA No.420/Viz/2024. As per the General Clauses Act, 1897 the first day in a series of days or any other period of time is excluded and hence we consider the delay of 1 day as not a delay in filing the appeal and accordingly admit the appeal for adjudication. For the sake of convenience, these appeals are clubbed, heard together and a common order is being passed as under. Facts are extracted from ITA No.420/Viz/2024.

2. Brief facts of the case are that the assessment in the case of the assessee was completed by making an addition of Rs. 72,86,158/- as income from other sources and added to the total income of the assessee. Aggrieved by the order of the learned Assessing Officer, assessee preferred appeal before the CIT(A) and the Ld.CIT(A) dismissed the appeal of the assessee ex-parte as the assessee failed to furnish substantive evidence or documentary support for his claim.

3. Against which, assessee preferred an appeal before the Tribunal and at the outset, learned AR contended that the learned CIT(A) is not justified in dismissing the appeal of the assessee ex-parte. Learned AR further contended that the Assessing Officer erred in making addition of Rs.72,86,158/- u/s 115BB of the Act towards winnings from online Poker Gambling platforms despite of the fact that assessee engaged in the online gaming activity on full time as a Business and the income therefrom should be should be treated as Income from Business or Profession and should not be as income from other sources. Learned AR further submitted that the Assessing officer erred in not considering the TDS credit of Rs.21,86,073/- while making the assessment and determining the tax liability. He, therefore pleaded to direct the learned Assessing Officer to consider the net winnings of the assessee at only Rs.24,90,680/- instead of Rs.72,86,158/- as assessed by the learned Assessing Officer.

4. Per contra, learned DR contended that despite giving sufficient opportunities, the assessee failed to avail the same to prove his claim by providing documentary evidence. Hence, the learned CIT(A) is justified in dismissing the appeal of the assessee ex-parte. He, therefore, pleaded to uphold the order passed by the learned CIT(A) and dismiss the appeal of the assessee.

5. We have heard the rival contentions in the light of the submissions made on either side and perused the material available on record. As could be seen from the record, we find that the learned CIT(A) disposed-of the appeal ex-parte, observing that various notices have been issued to the assessee, but the assessee failed to comply with any of such notices nor did

the assessee produce any documents, explanation and evidence to substantiate the grounds raised.

6. Having regard to the facts and circumstances of the case, we are of the considered opinion that the impugned order does not comply with the requirement of Section 250(6) of the Act and cannot be sustained. Learned AR submitted that since the learned Assessing Officer also finalized the assessment under section 143(3) of the Act, affording an opportunity to the assessee to prosecute his case before the learned CIT(A), by submitting the documents/evidence, the highest that would happen is that a cause could be decided on merits. We consider this request reasonable, and it would be in the interest of justice to remit the issue to the file of the learned CIT(A) for considering the submissions of the assessee and take a fresh view in the matter.

7. With this view of the matter, we set aside the impugned order and restore the issue to the file of the learned CIT(A) to decide the issue afresh. We direct the assessee to co-operate with the learned CIT(A) in getting the matter disposed of on merits, without seeking any adjournments and the learned CIT(A) to take a fresh look at the matter, after affording a reasonable opportunity of being heard to the assessee. Grounds are accordingly treated as allowed for statistical purposes.

8. In the result, appeals of the assessee are treated as allowed for statistical purposes.

Order pronounced in the Open Court on 21st November, 2024.

Sd/-
(BALAKRISHNAN S.)
ACCOUNTANT MEMBER

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad,
Dated: 21/11/2024
L.Rama, SPS

Copy forwarded to:

1. Shri Anga Vikranth Varma, D.No.63-4-44/1, Pavanputra Nagar, Malkapuram Post, Sriharipuram, Visakhapatnam
2. The Income Tax Officer, Ward-2(1), Visakhapatnam
3. The Pr.CIT, Visakhapatnam
4. The DR, ITAT, Visakhapatnam
5. GUARD File

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