

**आयकर अपीलीय अधिकरण, हैदराबाद पीठ**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**Hyderabad ' A ' Bench, Hyderabad**  
*( Hybrid hearing)*  
**Before Shri Vijay Pal Rao, Vice-President**  
**A N D**  
**Shri Manjunatha, G. Accountant Member**

आ.अपी.सं / **ITA No.1127/Hyd/2024**  
(निर्धारण वर्ष / Assessment Year: 2015-16)

Shri Surkunti Narayana Reddy, Nizamabad PAN:CVWPS8341F (Appellant)	Vs.	Income Tax Officer Ward-1 Nizamabad (Respondent)
निर्धारिती द्वारा / Assessee by:		Shri Pradeep Raj Kuna, CA
राजस्व द्वारा / Revenue by:		Shri T. Venkanna, DR
सुनवाई की तारीख / Date of hearing:	04 / 12 / 2024	
घोषणा की तारीख / Pronouncement:	05 / 12 / 2024	

**आदेश/ORDER**

**Per Vijay Pal Rao, Vice President**

This appeal filed by the assessee is directed against the order dated 29/08/2024 of the learned CIT (A)-NFAC Delhi, relating to A.Y.2015-16.

2. The assessee has raised the following grounds:

*"1. The Order of the Learned Commissioner of Income Tax (Appeals) is against the law, weight of evidence and probabilities of the case.*

*2. The learned Commissioner erred in estimating income of the Appellant at 8 percent on the total Turnover, not considering that the drip irrigation commission has already been certified by the BIS through commission certificate*

*3. The learned Commissioner erred in adopting an adhoc rate and not applying a justifiable rate of net profit considering the nature of business and other facts.*

*4. The learned commissioner erred in accepting the contention of the learned AO that purchase bills, confirmation from party, tally extract narrating bank statement are not submitted during the course of proceedings*

*5. The appellant carves leave to add to, amend or modify the above grounds of appeal either before or at the time of hearing of the appeal, if it is considered necessary.”*

3. The learned AR of the assessee has submitted that the assessee is a commission agent/authorized dealer of Bangaru Irrigation System as per license granted by the Agricultural Market Committee and therefore, the assessee is working as a commission agent on behalf of Govt. of Telangana under the scheme of providing drip irrigation system to the eligible farmers on subsidy. The Assessing Officer has passed an ex-parte assessment order u/s 147 r.w.s. 144 of the I.T. Act, 1961 and made the addition of the entire deposits in the bank account of the assessee whereas the income of the assessee is only 1.5% commission on the transaction/deposits made in the Bank Account. He has referred to the CBDT Circular No.4523 of 17/03/1986 issued in relation to kacha and pucca arhatias/commission agents on which only commission has to be considered for the purpose of section 44AB of the Act. The learned

AR has also referred to the remand report of the Assessing Officer, submitted that, during the appellate proceedings before the learned CIT (A) and submitted that the Assessing Officer has duly examined the supporting evidence filed by the assessee and accepted that the assessee is carrying on the business activity in the rural areas on behalf of the farmers, as per scheme run by the State Govt. along with his commission agency business in the Agricultural Market Committee. Therefore, the assessee received cash from the farmers and deposits in his bank account for making Demand Draft on behalf of the farmers. The transactions in the bank account are related to that business only. However, the learned CIT (A) confirmed the addition made by the Assessing Officer without appreciating the remand report of the Assessing Officer. He has further submitted for the subsequent A.Y i.e. A.Y 2017-18, the learned CIT (A) has deleted the addition made by the Assessing Officer and accepted the income declared by the assessee as commission @ 1.5%. He has filed a copy of the order of the learned CIT (A) dated 27/06/2024 for the A.Y 2017-18. The learned AR has also referred to the assessment order dated 16/12/2019 in case of one Shri Anand Rao Moglikar, wherein the Assessing Officer has accepted the commission income of the said assessee @ 1.5%. Thus, the learned AR has pleaded that, the addition on account of business income be restricted to 1.5% of the total deposits in the bank account of the assessee, being the commission income.

4. On the other hand, the learned DR has submitted that, the assessee has not filed any return of income u/s 139 of the I.T. Act, 1961 as well as in response to notice u/s 148 of the Act. The assessee has also not produced any supporting evidence to establish that, the deposits in the Bank Account of Rs.2,04,44,804/- represents his commission agent/dealership business. The assessee has not maintained any books of account and, therefore, except a license granted by the Agricultural Market Committee, the assessee has not produced any supporting evidence in this respect. Therefore, the Assessing Officer has rightly made addition u/s 69A of the I.T. Act, 1961 in respect of the deposits made in the bank account of the assessee for want of any explanation of the source of the said deposits. The learned AR has further submitted that before the learned CIT (A), the assessee itself has pleaded that instead of the addition of the entire amount of deposits in the bank account, the income can be assessed @ 8% which was accepted by the learned CIT (A) while passing the impugned order and therefore, there is no grievance of the assessee against the impugned order of the learned CIT (A) in estimating income @ 8% as per the request of the assessee himself. Thus, he has relied upon the impugned order of the learned CIT (A).

5. We have considered the rival submissions as well as the relevant material available on record. There is no dispute that the assessee has not filed any return of income u/s 139 or in

response to notice u/s 148 of the I.T. Act, 1961. Further, there was no compliance on behalf of the assessee to the notices issued by the Assessing Officer and consequently, the Assessing Officer was constrained to frame the assessment on, best judgment basis, as per material available with the Assessing Officer. The Assessing Officer consequently made addition of Rs.2,04,44,804/- representing the total deposits made in the Bank Account of the assessee. Before the learned CIT (A), the assessee explained that he is in the business of commission agent as well as dealer of the drip irrigation scheme system under the Govt. of Telangana to provide irrigation system to the eligible farmers at subsidized rate. The learned CIT (A) called for a remand report from the Assessing Officer which reads as under:

*“GOVERNMENT OF INDIA  
MINISTRY OF FINANCE, INCOME TAX DEPARTMENT*

To,

*The Appeal Unit*

*Dated: 16/05/2024 DIN & Letter No: ITBA/  
NFACIFI24/2024-25/1064932726(1) .*

*Sub:- Remand Report the case of NARAYANA REDDY  
SURKUNTI (CVWPS8341F) for AY 2015-16 with reference to  
Appeal Number NFACI2014-15/10129558- reg.*

*The assessee, Sri Narayana Reddy Surkunti is a non- filer for the A.Y. 2015 16. The case was reopened u/s 147 basing on the information that an amount of Rs. 2,04,44,804/- cash was deposited into the bank accounts of the assessee during the year had escaped assessment. The nature and source of cash deposit made in the bank accounts was not explained by the assessee during the scrutiny proceedings even after providing sufficient opportunities. Accordingly, FAO completed the assessment by adding the unexplained cash*

deposits of Rs. 2,04,44,804/- u/s 69A of the Income Tax Act and assessed the income at Rs. 2,04,44,800/-. Assessee preferred appeal before the CIT(A) on this addition.

The CIT(A) had called for remand report on the issue of addition made on account of cash deposits into the bank accounts of the assessee. Assessee submitted copies of Dealership form of Bangaru Irrigation Systems, Renewal form copy of Agricultural Market Committee license and statements showing the DD's details, financials, Bank statements. etc.,

The additional evidences submitted by the assessee are perused. From these it appears that the assessee is into supply of irrigation material and also into commission business in the market committee in the market committee for agricultural produce like maize, turmeric etc.,

In this line of business, the farmers approach the assessee for getting drip allotted to their land on subsidy basis as per the Scheme of Government of Telangana. During the process, the farmers give pattadar passbook along with required amount in cash to the assessee. In turn, the assessee deposited the cash in his bank account and obtained DDs on behalf of the farmers for getting the Drip and other materials on subsidy basis from Bangaru Irrigation System. In confirmation of the same, the assessee submitted the bank statement copy wherein the deposit of cash and obtaining of DD are reflected. The assessee also submitted the confirmations from some of the farmers along with their pattadar passbook showing their land holdings and Aadhar cards, who have applied for drip irrigation through the assessee and paid the cash to the assessee.

The assessee produced DD details of Andhra bank, Financials, Pattadar passbooks on sample basis along with some other details. It appears from the submissions that the assessee is a commission agent on behalf of the Bangaru Irrigation Systems which is into implementing the Government of Telangana's scheme of providing Drip Irrigation systems on subsidy to the eligible farmers. The assessee had submitted evidences to this effect on a sample basis and list of DDs taken on behalf of farmers is also submitted. He only gets some commission out of these activities from Bangaru irrigation systems.

*The assessee further submitted among others, a trading account for agricultural produce like Maize, turmeric etc. wherein sale (Bank) of Rs, 1,26,29,579/ was claimed and purchases of Rs.1,22,60,824/- were claimed.*

*In the light of the above, it can be seen that the assessee is carrying business activity in the rural area on behalf of farmers as per the scheme run by the State Government along with his commission business in agricultural market committee and the assessee received the cash from the farmers and deposited the same in his bank accounts for making DDs on behalf of farmers, the transactions in the bank account are related to that business only.*

*Submitted for kind perusal of Learned CIT(A) for deciding the case on merits*

*Yours faithfully,  
Assessing Officer”*

6. Thus, the Assessing Officer has accepted the claim of the assessee that, the assessee is carrying on business activity in the rural areas on behalf of the farmers as per the scheme run by the State Govt. along with his commission business in agricultural market committee. By considering this remand report, the learned CIT (A) has restricted the addition to 8% of the total deposits as against the addition made by the Assessing Officer of total deposits in the bank account. Now the assessee is seeking further relief by claiming that, the income of the assessee is only 1.5% of the deposits as the commission income and relied upon the order of the learned CIT (A) for the A.Y 2017-18 dated 27/06/2024 whereby the learned CIT (A) has deleted the addition made by the Assessing Officer on account of unexplained cash deposits in the bank account. The assessee has also relied upon the assessment order in case of Shri Anand Rao Mouglikar for the

A.Y 20912-13 passed by the Income Tax Officer Ward-1 Nirmal dated 16/12/2019 wherein the Assessing Officer has accepted the commission income @ 1.5%. It is pertinent to note that once the Assessing Officer has accepted the business activity of the assessee as a commission agent as well as dealership in drip irrigation system on behalf of the farmers, then the income of the assessee was required to be assessed on some reasonable basis. Though the learned CIT (A) has estimated the income of the assessee @ 8%, however, in the subsequent A.Y, the learned CIT (A) has deleted the addition made by the Assessing Officer on account of unexplained cash deposits in the bank account. It is not clear from the order of the learned CIT (A) for the A.Y 2017-18 whether the assessee has offered any income on account of commission or not. Accordingly, in the facts and circumstances of the case, we are of the considered opinion that this matter requires a proper verification and examination of the relevant facts in the light of order of the learned CIT (A) for the A.Y 2017-18 as well as the assessment order in case of Shri Anand Rao Moglikar as relied upon by the assessee. Since the deposits in the bank account of the assessee represents two kind of receipts (i) as a commission agent and another (ii) activity of the assessee in respect of drip irrigation system under the scheme of the State Govt. Therefore, there cannot be a single percentage of commission in both kind activities. Hence, the matter is remanded to the record of the Assessing Officer with a direction to the Assessing Officer to reconsider the issue and apply

appropriate rate for estimation of income of the assessee after giving an opportunity of hearing to the assessee.

7. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the Open Court on 5<sup>th</sup> December, 2024.

Sd/-

Sd/-

<b>(MANJUNATHA, G) ACCOUNTANT MEMBER</b>	<b>(VIJAY PAL RAO) VICE-PRESIDENT</b>
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Hyderabad, dated 5<sup>th</sup> December, 2024

*Vinodan/sps*

Copy to:

S.No	Addresses
1	Shri Surkunti Narayana Reddy, 1-27 Noothpalle Village, Nandipet Manda, Nizamabad Distt.
2	Income Tax Officer Ward -1 Nizamabad
3	Pr. CIT – Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

*By Order*