

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

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

(HYBRID HEARING)

**श्री के.नरसिम्हा चारी, न्यायिक सदस्य एवं श्री एस बालाकृष्णन, लेखा सदस्य के समक्ष
BEFORE SHRI K. NARASIMHA CHARY, HON'BLE JUDICIAL MEMBER**

&

SHRI S BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER

**आयकर अपील सं./I.T.A.No.234/VIZ/2024
(निर्धारण वर्ष/ Assessment Year: 2018-19)**

Sri Seetaramanjaneya Sortex 1-2015/A, Uppalanka Kakinada – 533016, Andhra Pradesh [PAN: ABDFS4641P]	v.	Pr.CIT Aayakar Bhavan Dabagardens – 530020 Visakhapatnam, Andhra Pradesh
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)

करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri Pradeep Tayal, AR
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Dr.Satyasai Rath, CIT(DR)
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	03.12.2024
घोषणा की तारीख/Date of Pronouncement	:	10.12.2024

आदेश /ORDER

PER SHRI S BALAKRISHNAN, ACCOUNTANT MEMBER:

1. This appeal is filed by the assessee against order passed under section 263 of Income Tax Act, 1961 (in short 'Act') by Learned Principal Commissioner of Income Tax, Visakhapatnam -1, [hereinafter in short "Ld.Pr.CIT"] vide DIN & Letter No. ITBA/COM/F/17/2023-24/1063706153(1) dated 30.03.2024 for the A.Y.2018-19.

2. Brief facts of the case are that, assessee is a partnership firm filed its return of income for the A.Y. 2018-19 on 19.09.2018 admitting a total income of Rs.1,02,00,389/-. The case was selected for complete scrutiny under e-assessment scheme to verify the duty drawback, unsecured loan and business expenses. Accordingly, the assessment was completed under section 143(3) r.w.s. 143(3A) & 143(3B) of the Act on 12.03.2021 by accepting the income returned. Subsequently, Ld.Pr.CIT under his powers vested on him under section 263 of the Act examined and concluded that the assessment completed under section 143(3) dated 12.03.2021 was erroneous and prejudicial to the interest of the revenue, thereby set-aside the order the passed by the Ld. AO. Against the order of the Ld.Pr.CIT dated 29.03.2023, assessee filed an appeal before the Tribunal, the Tribunal vide its order dated 29.11.2023 partly allowed the appeal of the assessee by directing the Ld.Pr.CIT to give one more opportunity of being heard to the assessee with respect to the applicability of TDS provisions on expenditure towards interest, commission, contract and professional charges. Ld.Pr.CIT as per the directions of the Tribunal vide notice dated 12.02.2024 provided the opportunity to the assessee to furnish supporting documents in support of its claim. In response, assessee made submissions before Ld.Pr.CIT. Considering the submissions made by the assessee, Ld.Pr.CIT observed that assessee has declared “loan funds from others” in the balance sheet as per the return of income filed by the assessee. The contention of the assessee is that there was a clerical mistake while

disclosing the “loan funds from banks” as “loan funds from others” in the balance sheet furnished along with the return of income. Ld.Pr.CIT observed that the Ld. AO has not verified or made any enquires regarding the issue of “loan funds from others” shown in the balance sheet by the assessee. Ld.Pr.CIT therefore considered the order of the Ld. AO as erroneous and prejudicial to the interest of the revenue. Thereafter he directed the Ld. AO to verify the issue on the applicability of TDS provisions of the Act by providing one more opportunity to the assessee.

3. Being aggrieved by the order of the Ld.Pr.CIT, assessee is in appeal before us by raising various grounds. The grounds raised by the assessee are mainly pertaining to the statement of facts and are argumentative in nature. However, the grievance of the assessee emanating from the above grounds is with respect to the directions by the Ld.Pr.CIT to verify the allowability of expenditure in the absence of deduction of tax at source.

4. On this issue, Ld. Authorised Representative [hereinafter “Ld.AR”] submitted that it has been inadvertently disclosed as “loan funds from others” whereas the loans are taken from banks and financial institutions. He therefore pleaded that as per Section 194 of the Act deduction of tax is not applicable on the interest payment to the banks. Further, he also reiterated on the non-applicability of the tax deduction at source for an amount of Rs.21,70,096/- stating that these are within the threshold limits for exemption for deduction of

TDS. He therefore pleaded that this issue is already verified by the Ld. AO and therefore the order of the Ld.Pr.CIT deserves to be quashed.

5. Per contra, Ld. Departmental Representative [hereinafter in short “Ld.DR”] submitted that Ld. AO has not discussed about the deduction of tax at source on the interest commission and other business expenditures while framing the assessment under section 143(3) r.w.s. 143(3A) & 143(3B) of the Act. He therefore pleaded that Ld.Pr.CIT has rightly concluded that the order is erroneous and prejudicial to the interest of the revenue and has directed the Ld.AO to verify the evidences submitted by the assessee. He therefore pleaded that the order of the Ld.Pr.CIT be upheld.

6. We have heard both the sides and perused the material available on record including the orders of the lower authorities. It is an undisputed fact that the Ld.AO has not discussed on the issue of applicability of the TDS provisions on the interest payments in the assessment order. Further, Ld. AO has also not caused any enquiry with respect to the loan from others as disclosed in the balance sheet while filing the return of income. In the absence of any enquiries by the Ld. AO during the course of assessment proceedings, we find that the order passed by the Ld.Pr.CIT directing the Ld. AO to examine the genuineness of the contentions made by the assessee, compliance of applicable TDS provisions of the Act by the assessee and disallowance of corresponding expenditure under section 40(a)(ia) for non-compliance with applicable TDS

provisions of the Act by providing one more opportunity to the assessee, is valid in law. We therefore find no infirmity in the order of the Ld.Pr.CIT passed under section 263 of the Act and uphold the same. Accordingly, grounds raised by the assessee are dismissed.

7. In the result, appeal of the assessee is dismissed.

Order pronounced in the open court on 10th December, 2024.

Sd/-
(के.नरसिम्हा चारी)
(K. NARASIMHA CHARY)
न्यायिक सदस्य/JUDICIAL MEMBER
Dated: 10.12.2024
Giridhar, Sr.PS

Sd/-
(एस बालाकृष्णन)
(S. BALAKRISHNAN)
लेखा सदस्य/ACCOUNTANT MEMBER

आदेशकीप्रतिलिपिअग्रेषित/ Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee : **Sri Seetaramanjaneya Sortex**
1-2015/A, Uppalanka
Kakinada – 533016
Andhra Pradesh
2. राजस्व/ The Revenue : **Pr.CIT**
Aayakar Bhavan
Dabagardens – 530020
Visakhapatnam, Andhra Pradesh
3. The Principal Commissioner of Income Tax
4. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, विशाखापटणम /DR,ITAT, Visakhapatnam
5. The Commissioner of Income Tax
6. गार्डफ़ाईल / Guard file

//True Copy//

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam