

आयकर अपीलियअधिकरण, विशाखापटणम पीठ, विशाखापटणम
IN THE INCOME TAX APPELLATE TRIBUNAL,
VISAKHAPATNAM "DIVN" BENCH, VISAKHAPATNAM
श्री वी. दुर्गा राव, न्यायिक सदस्य एवं श्री एस बालाकृष्णन, लेखा सदस्य के समक्ष
BEFORE SHRI V. DURGA RAO, HON'BLE JUDICIAL MEMBER
&
SHRI S BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER

आयकर अपील सं./ I.T.A. No.123/Viz/2025
(निर्धारण वर्ष / Assessment Year : 2017-18)

Sri Annapurna Rice Mill, Mandapeta. PAN: ABEFS8434K	Vs.	The Asst. Commissioner of Income Tax, Circle-1, Kakinada.
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)
अपीलार्थी की ओर से/ Assessee by	:	Smt. A. Aruna
प्रत्यर्थी की ओर से / Revenue by	:	Dr. Aparna Villuri, Sr. AR
सुनवाई की तारीख / Date of Hearing	:	07/04/2025
घोषणा की तारीख/Date of Pronouncement	:	08/04/2025

ORDER

PER SHRI V. DURGA RAO, JM:

This appeal filed by the assessee is against the order of the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi ("Ld. CIT(A)") in DIN & Order No. ITBA/NFAC/S/250/2024-25/1071297989(1), dated 17/12/2024

arising out of the order passed U/s. 147 r.w.s 144 of the Income Tax Act, 1961 (“the Act”) for the AY 2017-18.

2. Brief facts of the case are that the assessee firm did not file its return of income for the AY 2017-18. As per the information available in Form No. 26AS, the Ld. AO noticed that the assessee-firm received gross receipts of Rs. 2,16,813/- and interest income of Rs. 82,250/- during the Financial Year 2016-17 relevant to AY 2017-18. Accordingly, the case of the assessee was reopened and notice U/s. 148 of the Act was issued on 28/03/2021. However, the assessee did not furnish any response to the notice issued U/s. 148 of the Act. Further, during the assessment proceedings, the Ld. AO issued various statutory notices U/s. 142(1) of the Act along with questionnaire to the assessee firm but, there was no response from the assessee. Accordingly, considering the assessee’s failure to furnish any reply to the notices and non-compliance of the assessee, the Ld. AO completed the assessment ex-parte based on the material available on record as per the provisions of section 144(1) of the Act as ‘Best Judgment Assessment’. While doing so, the Ld. AO, in the absence of any details, explanation and

documentary evidence from the assessee-firm, made addition of Rs. 2,01,40,000/- U/s. 69 of the Act towards unexplained investment from undisclosed sources. Further, the Ld. AO also made addition of Rs. 99,595/- treating the same as income from other sources since the assessee has failed to furnish / submit any details with regard to interest income of Rs. 82,250/- and contract receipts of Rs. 17,345/-. Thus, the Ld. AO completed the assessment U/s 147 r.w.s 144 r.w.s 144B of the Act vide assessment order dated 26/03/2022 and determined the total income at Rs. 2,02,39,595/-. Aggrieved by the order of the Ld. AO, the assessee carried the matter in appeal before the Ld. CIT(A).

3. On appeal, since there was no response from the assessee with respect to the hearing notices issued and in the absence of any representation on behalf of the assessee, written submissions nor evidence supporting the grounds raised before him, the Ld. CIT(A)-NFAC passed the order ex-parte and dismissed the assessee's appeal. Aggrieved by the order of the Ld. CIT(A)-NFAC, the assessee is in appeal before the Tribunal by raising the following grounds of appeal:

- “1. *The order of the Ld. CIT(A) is contrary to the facts and also the law applicable to the facts of the case.*
2. *The Ld. CIT(A) erred in deciding the appeal ex-parte without considering the detailed submissions filed by the appellant on 04/12/2024.*
3. *Without prejudice to the above, the Ld. CIT(A) is not justified in sustaining the addition of Rs. 2,01,40,000/- made by the AO U/s. 69A of the Act towards unexplained cash deposits in the bank account.*
4. *The Ld. CIT(A) is not justified in sustaining the addition of Rs. 82,250/- made towards interest income.*
5. *The Ld. CIT(A) is not justified in sustaining the addition of Rs. 17,345/- made by the AO towards profit estimated on contract receipts.*
6. *Any other ground that may be urged at the time of appeal hearing.”*

4. At the outset, the Ld. Authorized Representative [“Ld. AR”] submitted before us that the Ld. CIT (A)-NFAC has passed ex-parte order without providing proper opportunity to the assessee of being heard. The Ld. AR further submitted that the assessee has filed detailed submissions before the Ld. CIT(A)-NFAC on 04/12/2024, however, the Ld. CIT(A)-NFAC did not consider the same and dismissed the appeal ex-parte. It was therefore pleaded that the matter may be remitted back to the file of the Ld CIT (A)-NFAC in order to provide one more opportunity to the assessee of being heard.

5. Ld. Departmental Representative [“Ld. DR”], on the other hand, vehemently opposed to the submissions of the Ld. AR and argued that several opportunities had been provided to the assessee however, on the given dates of hearing, neither the assessee nor its Representative has

responded to the notices issued nor filed any details / submissions as called for by the Ld. CIT (A)-NFAC. It was further submitted that, under these circumstances, the Ld. CIT (A)-NFAC had no other option but to pass ex-parte order based on the materials available on record. Hence, it was pleaded that the order passed by the Ld. CIT(A)-NFAC does not call for any interference.

6. We have heard both the sides and carefully perused the materials available on record. On examining the facts of the case, we find that the Ld. CIT (A)-NFAC had posted the case on several occasions. However, there was no response on behalf of the assessee before the Ld. CIT(A)-NFAC on the dates of hearing with regard to the details / submissions as called for by the Ld. CIT(A)-NFAC. Therefore, the Ld. CIT (A)-NFAC was left with no other option except to adjudicate the appeal ex-parte and dismissed the appeal by confirming the additions made by the Ld. AO. Further, we have noticed that the Ld. AO also passed the assessment order U/s. 144 of the Act as there was no response to the notices issued to the assessee. Before us it was the contention of the assessee that the assessee has filed detailed submissions before the Ld. CIT(A)-NFAC on 04/12/2024, however, the Ld. CIT(A)-NFAC did not consider the same and dismissed the appeal ex-parte. In this situation, considering the facts and circumstances of the case and

considering the issues involved in the appeal, as well as considering the prayer of the Ld. AR, in the interest of justice, strictly following the principles of natural justice, we hereby remit the matter back to the file of Ld. CIT (A)-NFAC in order to consider the appeal afresh and decide the case on merits by providing one more opportunity to the assessee of being heard in accordance with the principles of natural justice. At the same breath, we also hereby caution the assessee to promptly co-operate before the Ld. CIT (A)-NFAC in the proceedings failing which the Ld. CIT (A)-NFAC shall be at liberty to pass appropriate order in accordance with law and merits based on the materials available on the record. It is ordered accordingly.

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

Pronounced in the open Court on 08th April, 2025.

Sd/-	Sd/-
(S. BALAKRISHNAN)	(V. DURGA RAO)
लेखा सदस्य/ACCOUNTANT MEMBER	न्यायिकसदस्य/JUDICIAL MEMBER

Dated:08/04/2025

OKK - SPS

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

1. निर्धारिती/ The Assessee – Sri Annapurna Rice Mill, D.No. 31-9-54, Yeditha Road, Mandapeta Mandal, East Godavari District, Andhra Pradesh-533308.
2. राजस्व/The Revenue – Asst. Commissioner of Income Tax, Circle-1, O/o. ITO, 3rd Floor, Deepthi Towers, Main Road, Kakinada, Andhra Pradesh-533001.
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