

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Visakhapatnam Bench, Visakhapatnam

Before Shri Vijay Pal Rao, Vice President
and
Shri Manjunatha G., Accountant Member

आ.अपी.सं /**ITA No.195/Viz/2025**
(निर्धारण वर्ष / Assessment Year: 2013-14)

Sankaram Siram West Godavari PAN : APDPS3611R	Vs.	Income Tax Officer Ward-1 Palakol
(Appellant)		(Respondent)
निर्धारिती द्वारा / Assessee by:	Shri G.V.N.Hari, AR (through hybrid hearing)	
राजस्व द्वारा / Revenue by:	Dr.Aparna Villuri, DR	
सुनवाई की तारीख / Date of Hearing:	28/07/2025	
घोषणा की तारीख / Date of Pronouncement:	30/07/2025	

आदेश / ORDER

PER VIJAY PAL RAO, VICE PRESIDENT:

This appeal filed by the assessee is directed against the order dated 29.01.2025 of the Commissioner of Income Tax (Appeals) ["Ld.CIT(A)"], National Faceless Appeal Centre, Delhi for the A.Y.2013-14.

2. The assessee has raised the following grounds of appeal :

Sl No.	Grounds of Appeal
1.	The order of the learned Commissioner of Income Tax (Appeals) is contrary to the facts and also the law applicable to the facts of the case.
2.	The learned Commissioner of Income Tax (Appeals) ought to have held that the addition of Rs.1,29,26,227 towards cash deposits in bank account cannot be made u/s 68 of the Act.
3.	Without prejudice to the above, the learned Commissioner of Income Tax (Appeals) is not justified in sustaining the addition of Rs.1,29,26,227 made by the assessing officer towards unexplained cash deposits in bank account.
4.	The learned Commissioner of Income Tax (Appeals) is not justified in not directing the assessing officer to rectify the mistake in computation of total income of the appellant at Rs.2,58,52,450 in the computation sheet.
5.	Any other ground that may be urged at the time of appeal hearing

3. At the outset, it is noted that this is second round of appeal filed by the assessee, as earlier, this Tribunal vide order dated 31.05.2024 in ITA No.116/Viz/2024, remanded the matter to the record of the Ld.CIT(A) for fresh adjudication after affording an opportunity of hearing to the assessee in para 8 as under :

“8. We have heard both the parties and perused the material available on record. In the instant case, assessment in the case of the assessee was completed u/s 68 of the Act and the addition made by the AO of Rs.1,29,26,227/- was sustained by the Ld.CIT(A). As contended by the Ld.AR that the total income was wrongly computed at Rs.2,58,52,454/- in the computation sheet while the total income assessed was only at Rs.1,29,26,227/- and the assessee was not given proper opportunity of being heard before the Ld.CIT(A) to controvert the findings of the revenue authorities therefore, pleaded for an opportunity of being heard before the Ld.CIT(A) in the

interest of justice. Keeping in view the aforesaid facts and circumstances of the case and in order to meet the principles of natural justice, we are inclined to remit the matter back to the file of the Ld.CIT(A) with a direction to afford an opportunity of being heard to the assessee to present his case. The assessee is also directed to adhere to the notices issued by the revenue authorities and cooperate during the proceedings.”

3. The Ld.AR of the assessee has submitted that as per the directions of this Tribunal vide order dated 31.05.2024, the assessee has produced all the relevant details and evidences before the Ld.CIT(A), which includes the reply of the assessee, bank account statements as well as written submissions of the assessee. The Ld.AR has referred to bank account statements as well as the written submissions of the assessee and submitted that the assessee has pointed out the fact that the total deposit in two bank accounts of the assessee is only Rs.8,05,669/-, whereas the AO has made addition of Rs.1,20,57,658/- which is contrary to the record as facts evident from the bank account statement of the assessee. The Ld.AR has pointed out that the AO while making the additions has not given even the details of the bank account of the assessee, but has referred only the source of information, being AIR-001 and CIB-410 for a total amount of deposit of Rs.1,29,26,227/-. Despite all the relevant details and explanation of the assessee, the Ld.CIT(A) has passed the impugned order, confirming the original additions made by the AO. Thus, the Ld.AR has submitted that the impugned order passed by the Ld.CIT(A) is contrary to the directions of the Tribunal. He has referred to the finding of the Ld.CIT(A) in para 5

of the impugned order and submitted that what is referred by the Ld.CIT(A) in the impugned order are not the directions of this Tribunal and further the averments made in the findings are also contrary to the facts as well as submissions filed by the assessee. Thus, the Ld.AR has submitted that the impugned order passed by the Ld.CIT(A) is contrary to the directions of the Tribunal as well as the facts emerging from the record filed by the assessee and therefore, the same is liable to be set aside. The Ld.AR has further submitted that these additions were made by the AO on account of deposits in the bank account of the assessee and therefore, the additions made by the AO u/s 68 of the Act is not sustainable in law, when these are not in the nature of cash credit in the books of accounts of the assessee. In support of his contention, he has relied upon the following decisions :

(a) Sandhi Raja Sekhar Vs. ITO in ITA No.296/Viz/2024 dated 07.03.2025

(b) Smt.Asha Sanghvi Vs. ITO in ITA No.33/Viz/2019 dated 15.11.2019

4. On the other hand, the Ld.DR has submitted that the Ld.CIT(A) has given the finding of fact by considering all the submissions and record filed by the assessee. She has relied upon the impugned order.

5. We have considered the rival submissions as well as the material on record. In the first round of appeal, this Tribunal remanded the issue to the record of the Ld.CIT(A) for deciding the same afresh and also taken note of the fact that while computing

the total income, the AO has wrongly calculated the amount at Rs.2,58,52,454/- as against Rs.1,29,26,227/- proposed to assess on account of deposits in the bank account. In the proceedings, as remanded by this Tribunal before the Ld.CIT(A), the assessee filed the bank account statements, which are placed at page No. 9 to 13 of the paper book, thus the assessee has given the details of the bank account Nos.076910100016983 and 076910100022805 and the total amount of deposit during the year under consideration in these two bank accounts is only Rs.8,05,669/-. These details were also submitted by the assessee in the written submission filed before the Ld.CIT(A), which are placed at page No.16 to 22 of the paper book. The assessee has explained that out of total deposit of Rs.8,05,669/-, a sum of Rs.3,28,472/- pertains to the fixed deposits of the earlier year credited in the bank account of the assessee on maturity. On careful perusal of these details and submissions of the assessee, we find that the assessee has produced all necessary details and evidences including the two bank account statements to show the total deposits in the bank account and further credit of Rs.3,28,472/- as maturity amount of fixed deposits made in the earlier years. Details of these credits are also reflected in the bank account statement of the assessee. The Ld.CIT(A) has passed the impugned order by making reference of the assessment order and notices issued by the AO at page No.4 to 6 as under :

Background of Previous Orders

The CIT(A) upheld the AO's decision, stating that the appellant failed to provide any corroborative evidence to substantiate the claim that the cash deposits were collected from bank customers to repay overdue loans. The explanation regarding the role of senior officials in directing these transactions was vague and unsubstantiated. The penalties under Sections 271(1)(c), 271(1)(b), and 271F were deemed appropriate, given the appellant's repeated non-compliance and lack of credible responses during assessment proceedings.

Order of the ITAT:

The ITAT acknowledged procedural lapses in the assessment and appellate orders and emphasized that the AO's reliance solely on the bank passbook as evidence under Section 68 was misplaced, as held in *CIT vs. Bhaichand N. Gandhi* (141 ITR 67). The AO did not explore or verify alternative explanations provided by the appellant, such as the involvement of senior officials or the repayment of customer loans. The ITAT directed that the matter be reconsidered in light of these observations.

The AO initiated reassessment proceedings under Section 147 based on information regarding substantial cash deposits totaling Rs. 1,29,26,227/- in the appellant's savings bank account during the financial year 2012-13. Despite multiple notices under Sections 148 and 142(1), the appellant neither filed a return of income nor provided adequate explanations. The AO treated the cash deposits as unexplained income under Section 68 and taxed the same under Section 115BBE.

The appellant has repeatedly failed to comply with statutory notices issued under sections 142(1) and 148 of the Income Tax Act, 1961. The records indicate that despite multiple opportunities provided to the appellant, no substantial evidence or documentation was submitted to substantiate the source of the cash deposits amounting to Rs. 1,29,26,227/-. The assessee's response, claiming that the cash deposits were collected from bank loanees and deposited in his account as per the instructions of his bank superiors, remains unsubstantiated due to the absence of corroborative evidence such as authorization letters from the bank, statements from loanees, or any formal acknowledgment from bank authorities. It is a well-settled principle of taxation law that the burden of proof lies on the assessee to demonstrate the legitimacy of the credits appearing in their accounts. The appellant's failure to do so leads to the presumption that the deposits represent unexplained income, as per

the provisions of Section 68 of the Act. This position finds support in the ruling of the Hon'ble Supreme Court in the case of **CIT vs. P. Mohanakala (2007) 291 ITR 278 (SC)**, where it was held that unexplained cash credits may be treated as the assessee's income if the explanation provided is unsatisfactory or lacking.

The appellant's argument that the deposits should not be assessed under Section 68 as they appear in the bank passbook rather than in the books of accounts maintained by the appellant is not tenable in the present case. The legal precedent cited by the appellant, namely **CIT vs. Bhaichand N. Gandhi (1983) 141 ITR 67 (Bombay)**, is distinguishable from the facts of the present case, as the appellant has not demonstrated that the bank deposits were reflected in any form of systematic account-keeping that would exclude the applicability of Section 68. Furthermore, the ITAT in various cases has upheld that where substantial cash deposits remain unexplained and there is no plausible explanation, such deposits may be deemed as income of the assessee under Section 68. In the instant case, the appellant has not maintained proper books of account, and the bank statements have been the only available source of financial transactions. Consequently, the assessing authority is justified in invoking Section 68 to assess the unexplained deposits.

The appellant contends that the AO erroneously added the cash deposits twice, resulting in an inflated demand. However, a review of the assessment order does not substantiate this claim. The computation of taxable income and the demand raised have been derived based on the actual amounts reflected in the bank statements. The appellant has not provided any reconciliation statement or evidence to demonstrate the alleged duplication of income. Therefore, the assertion of double addition is dismissed for lack of substantiation.

It is observed that the assessing officer (AO) has adhered to due process by issuing multiple notices under relevant sections of the Act, allowing sufficient time for the appellant to respond. The appellant's claim of being unaware of tax compliance procedures does not absolve him of his statutory obligations. The law presumes that every individual is aware of their tax obligations, and ignorance cannot be a defense.

Based on the foregoing discussion, it is evident that the appellant has not been able to discharge the onus of proving the genuineness of the cash deposits. The absence of substantial documentary evidence and the failure to comply with statutory notices justify the assessing officer's decision to treat the cash deposits as unexplained income under Section 68. Additionally, the claim of double addition has not been supported by any conclusive evidence, and procedural fairness has been observed throughout the assessment and appellate proceedings.

6. Accordingly, the addition amounting to Rs.1,29,26,227/- under Section 68 is

upheld. The appeal filed by the appellant is dismissed.

6. Thus, it is manifest from the impugned order of the Ld.CIT(A) that relevant details filed by the assessee as well as the written submissions of the assessee were neither considered nor analysed while passing the impugned order. Therefore, the impugned order passed by the Ld.CIT(A) is in gross contravention of the directions of this Tribunal as well as contrary to the facts brought on record by the assessee. The assessee also pleaded in the written submissions as an alternative plea, that the additions may be restricted to a peak credit of Rs.2,24,485/-. Accordingly, in the facts and circumstances of the case, we restrict the addition to the peak credit of Rs.2,24,485/-.

7. In the result, appeal filed by the assessee is partly allowed.

Order pronounced in the Open Court on 30th July, 2025.

Sd/-


Sd/-

(MANJUNATHA) ACCOUNTANT MEMBER	(VIJAY PAL RAO) VICE PRESIDENT
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Hyderabad,

Dated 30th July, 2025

L.Rama, SPS

ITA No.195 /Viz/2025
Sankaram Siram 

Copy to:

S.No	Addresses
1	Shri Sankaram Siram, D.No.249, Main Road, Dagguluru Village, Palakol Mandal, West Godavari Dist.
2	The Income Tax Officer, Ward-1, Income Tax Office, Aayakar Bhavan, Doddipatla Road, Palakol
4	The Pr.Commissioner of Income Tax, Visakhapatnam
4	The DR, ITAT Visakhapatnam
5	Guard File

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