

**आयकर अपीलीय अधिकरण, विशाखापट्टणम पीठ, विशाखापट्टणम**  
**IN THE INCOME TAX APPELLATE TRIBUNAL,**  
**VISAKHAPATNAM BENCH, VISAKHAPATNAM**

श्री वी. दुर्गराव, न्यायिक सदस्य एवं  
श्री डि.एस. सुन्दर सिंह, लेखा सदस्य के समक्ष  
BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER &  
SHRI D.S. SUNDER SINGH, ACCOUNTANT MEMBER

आयकर अपील सं./I.T.A.No.5/Vizag/2017  
(निर्धारण वर्ष / Assessment Year: 2011-12)

ITO, Ward-1  
Srikakulam

Tankala Suresh,  
Srikakulam

[PAN No.ABSPT2677H]

(अपीलार्थी / Appellant)

(प्रत्यार्थी / Respondent)

अपीलार्थी की ओर से / Appellant by  
प्रत्यार्थी की ओर से / Respondent by

: Shri D.J.P. Anand, DR  
: Shri S.V. Satyanarayana,  
AR

सुनवाई की तारीख / Date of hearing

: 08.08.2017

घोषणा की तारीख / Date of Pronouncement

: 18.08.2017

**आदेश / ORDER**

**PER D.S. SUNDER SINGH, Accountant Member:**

This appeal filed by the revenue is directed against order of the Commissioner of Income Tax (Appeals)-2 {CIT(A)}, Visakhapatnam vide ITA No.424/2015-16/CIT(A)-2/W-1/SKLM/2016-17 dated 20.10.2016 for the assessment year 2011-12.

2. All the grounds of this appeal are related to the credits in the bank account. The A.O. found that the assessee had a savings bank account bearing No.11152404011 with State Bank of India and there were deposits to the tune of ₹ 53,63,617/- and the said bank account was not disclosed to the Income Tax Department in their return. Therefore, the A.O. asked the assessee as to why the entire deposits made in the bank account should not be treated as unexplained income u/s 69 of the Income Tax Act, 1961 (hereinafter called as 'the Act'). The assessee explained that the total credits in the bank account were at ₹ 61,87,823/- and the assessee was engaged in the business of purchase and sale of steel utensils and articles. The business was done through various hawkers of rural areas in Srikakulam and neighbouring districts. The material was supplied to the hawkers on commission basis as the hawkers had no financial capacity to purchase the goods. On sale of the material the hawkers deposited the sale proceeds in the bank account after deducting their commission. Therefore, the assessee submitted before the A.O. that the entire deposits made in the bank account represented the sales and agreed to admit the additional income @ 8% on the sales. Not convinced with the explanation of the assessee, the A.O. taxed the entire credits as unexplained deposits and brought to tax.

3. Aggrieved by the order of the A.O., the assessee went on appeal before the Ld. CIT(A) and the Ld. CIT(A) after verification of the bank account noticed that most of the deposits were in the range of ₹ 20,000/- to ₹ 25,000/- and the names of the depositors were also mentioned therein. There were regular cash deposits and withdrawals. The periodical deposits and withdrawals and the manner in which the amounts deposited along with the names gives a clear indication that the deposits were made out of the business transactions. Therefore, the Ld. CIT(A) deleted the addition and directed the A.O. to restrict the addition to the tune of ₹ 4,95,027/- representing the profit @ 8% on the total deposits.

4. Aggrieved by the order of the Ld. CIT(A) the revenue is in appeal before us. Appearing for the revenue, the Ld. D.R. argued that the assessee had not disclosed the bank account in the original return of income and during the re-assessment proceedings also the assessee has not declared the said bank account to the revenue. There was no documentary proof to show that the deposits were made in the undisclosed bank account represented the turnover of the assessee. The assessee has not produced any evidence to establish the existence of the persons in whose names the deposits were made in the bank account. In the absence of any verifiable evidence with regard to the

persons and concerns to whom the payments were said to have been made, the Ld. CIT(A) is not correct in holding that the deposits made in the bank account were related to the sales. The Ld. D.R. argued that the A.O. has rightly brought to tax the entire deposits, which required to be confirmed.

5. On the other hand, the Ld. A.R. relied on the order of the Ld. CIT(A).

6. We have heard both the parties, perused the materials available on record and gone through the orders of the authorities below. The bank account of the assessee with State Bank of India bearing No.11152404011 was not disclosed to the revenue. There were credits in the bank account to the tune of ₹ 61,87,823/-. The Ld. CIT(A) has observed that the deposits were made in the range of ₹ 20,000/- to ₹ 25,000/- in the bank account with the names of the persons and the assessee has withdrawn the above amount immediately from the bank account. The assessee is engaged in the business of purchase and sale of steel utensils and articles as stated by him and supplied the utensils and articles to the local hawkers on commission basis in the places of Srikakulam and neighbouring districts. These hawkers after selling the products deposited the sale proceeds in the bank account, which were withdrawn by the assessee and re-used for circulation. The Ld. CIT(A)

has given a finding that the manner in which the bank account was conducted clearly shows that the deposits related to the turnover of the business. For the sake of clarity and convenience, we extract the relevant para No.4.3 of the Ld. CIT(A)'s order, which reads as under:

*"4.3 I have considered the submissions and details filed. It is seen that the assessee had filed his return of income on 09.11.2011, wherein he had declared income from business of Rs.2,20,775/- and after claiming deduction under chapter VI A of Rs.29,331/- returned a total income of Rs.1,91,440/-. The AO had issued notice u/s.148 on 19.08.2014, in response to which the assessee had stated that the original return may be treated as filed in response to such notice. Subsequently, a survey was conducted on 19.09.2014 and it was noted that the assessee had not declared a bank account maintained with SBI. Thereafter, the assessee filed a revised return of income on 06.04.2015, wherein he had offered additional income of Rs.4,95,027/- in regard to the transactions in his undeclared bank account. It was stated that the said additional income was offered by estimating the income at 8% of the total credits in the undeclared bank account of Rs.61,87,823/-. It was represented that the credits in the said bank account represent business receipts from the sale of utensils in Orissa and other places. However, the AO did not accept the said explanation nor the additional income offered, but assessed the entire credits as the assessee's unexplained income and made the impugned addition of Rs.61,87,823/-. The issue to be resolved is whether the assessment of entire credits as unexplained income is justified. In this context, I have perused the statement of the undeclared bank account, and it is noted that most of the deposits are in the range of Rs.20,000/- to Rs00/- and the names of the depositors are also mentioned therein. There were regular cash deposits and cash withdrawals. The periodical deposits and withdrawals, the manner and amounts deposited along with names and all give a clear indication that the deposits were made out of the proceeds of his business transactions. I also find that the additional income disclosed of Rs.4,95,027/- in regard to these credits to be reasonable. Therefore the AO is directed to restrict the addition to Rs.4,95,027/- as against the impugned addition of Rs.61,87,823/-. The AO is also directed to give credit to the taxes paid by the assessee in his revised return."*

7. From the order of the Ld. CIT(A) and the conduct of the assessee and the manner in which the account is operated, we agree with the finding of Ld. CIT(A) that the deposits made in the bank account

appears to be sale proceeds. No other evidence was brought by the revenue evidencing that the deposits are related to the unexplained sources even after conducting the survey in the premises of the assessee. Therefore, we do not find any infirmity in the order of the Ld. CIT(A) and the same is upheld.

8. In the result, the appeal filed by the revenue is dismissed.

The above order was pronounced in the open court on 18<sup>th</sup> Aug'17.

Sd/-

(वी. दुर्गाराव)

**(V. DURGA RAO)**

**न्यायिक सदस्य/JUDICIAL MEMBER लेखा सदस्य/ACCOUNTANT MEMBER**

विशाखापटणम /Visakhapatnam:

दिनांक /Dated : 18.08.2017

VG/SPS

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

1. अपीलार्थी / The Appellant – The ITO, Ward-1, Srikakulam
2. प्रत्यर्थी / The Respondent – Tankala Suresh, Prop: Sri Venkateswara Metal Industries, IDA, Kusalapuram, Srikakulam.
3. आयकर आयुक्त / The CIT-2, Visakhapatnam
4. आयकर आयुक्त (अपील) / The CIT (A)-2, Visakhapatnam
5. विभागीय प्रतिनिधि, आय कर अपीलीय अधिकरण, विशाखापटणम / DR, ITAT, Visakhapatnam
6. गार्ड फ़ाईल / Guard file

आदेशानुसार / BY ORDER

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Sr. Private Secretary  
ITAT, VISAKHAPATNAM