

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

श्री वी. दुर्गराव, न्यायिक सदस्य एवं  
श्री डी.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.425/Vizag/2016  
(निर्धारण वर्ष / Assessment Year: 2010-11)

Korapolu Kanaka Raju  
Visakhapatnam  
[PAN No.AHXPk2566R]  
(अपीलार्थी / Appellant)

ITO, Ward-1(4),  
Visakhapatnam

(प्रत्यार्थी / Respondent)

अपीलार्थी की ओर से / Appellant by : Shri C. Subrahmanyam, AR  
प्रत्यार्थी की ओर से / Respondent by : Shri Sesha Srinivas, DR  
सुनवाई की तारीख / Date of hearing : 07.02.2018  
घोषणा की तारीख / Date of Pronouncement : 09.02.2018

**आदेश / ORDER**

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

This appeal filed by the assessee is directed against order of the Commissioner of Income Tax-1 {CIT(A)}, Visakhapatnam vide ITA No.304/2013-14/ITO W-1(4),Vsp/2016-17 dated 30.9.2016 for the assessment year 2010-11.

2. Ground No.1 is not pressed therefore this ground is dismissed as not pressed.

3. Ground No.1.4 is general in nature, which do not require specific adjudication.

4. Ground No.1.1 is related to the cash deposits in bank account amounting to ₹ 10.00 lakhs. During the assessment proceedings for the assessment year 2010-11, the A.O. found that the assessee had undisclosed bank account in Indian Bank, Maharanipecta, Visakhapatnam with account No.713957051 and made cash deposits in the bank account to the tune of ₹ 10.00 lakhs for which the assessee explained the source as advances received for sale of land. The assessee stated that a sum of ₹ 5 lakhs was received from Sri K. Venkata Ganesh and K. Gouri Devi as per the agreement dated 21.1.2010 and further sum of ₹ 5 lakhs from Sri A. Venkata Rao and A. Padmavathi vide agreement dated 3.2.2010. In respect of K. Venkata Ganesh, the agreement was dated 21.1.2010 and stamp paper was purchased on 28.10.2009 which leads to suspicion with regard to the genuineness of the agreement. Both the agreements were unregistered and the advances were stated be received in cash. In respect of agreement with Mr. Kothala Venkata Ganesh, the sale agreement was

dated 21/01/2010 for sale of land for a consideration of ₹ 60 lakhs and stated to have received ₹ 5 lakhs as advance. The land was situated at Maharanipeta, Visakhapatnam in survey No.1206 admeasuring 163.80 Sq.yds. of site and the agreement was unregistered. The second agreement was entered into by the assessee with Shri Ambati Venkata Rao and Smt. Ambati Padmavathi on 3.2.2010 for sale of land at Dr.No.26-7-22, Panda Street, Visakhapatnam for a consideration of ₹ 16 lakhs and received the advance of ₹ 5 lakhs. Both the amounts are received in cash and the agreements furnished were photocopies. In both the cases the stamp papers were purchased on 28.10.2009. The assessee has not produced the subsequent sale deeds and submitted during the appeal hearing that the sale was not concluded and sale deeds were not executed. The CIT(A) confirmed the order of the A.O. holding that the alleged sale agreements were only make believe arrangements to explain the source of the impugned cash deposits. For the sake of clarity and convenience we extract the relevant part of the CIT(A) order which reads as under:

*"5.3 I have considered the submissions and details filed. It is pertinent to note that the assessee was asked to explain the source for the cash deposit to the tune of Rs.10 lakhs noted in his bank account, which was not disclosed to the Department. The assessee had raised a plea that it represented advance from sale of property. But the inquiry made by the AO clearly reveal that such a claim was not genuine. It is also relevant to note that the alleged parties who have purportedly made the impugned*

*advances were related parties, and they did not have creditworthiness to make the advance. The lack of financial capacity of these parties clearly give an indication that the alleged sale agreements were only a make-believe arrangement to explain away the source for the impugned deposits. No explanation was given as to why the advance received on sale of property already disclosed was deposited in undeclared bank account. Considering the totality of all facts, I find that the AO is justified in making the impugned addition. The alternative plea for telescoping is also without merits, as the plea all along had been that the credit was out of advance received. Therefore, the alternative plea without supporting evidence is rejected."*

5. We have heard both the parties, perused the materials available on record and gone through the orders of the authorities below. In the instant case, the assessee had made the cash deposits of ₹ 10 lakhs ₹ 5 lakhs on 21.1.2010 and ₹ 5 lakhs on 3.2.2010 both the deposits explained to be advances received from sale of lands. In support, the assessee had furnished the photocopy of the sale agreements but the originals sale agreements were not furnished. No confirmations were furnished before the A.O. or before the CIT(A). The assessee also did not furnish the subsequent sale deeds evidencing the receipt of the cash. The agreements were entered on 21.1.2010 and 3.2.2010 on the stamp paper purchased on 28.10.2009. Though A.O. issued summons the assessee failed to furnish the evidence. The A.O. has also given a finding that the sale agreements do not bear the signatures of the purchasers. The enquiries of the A.O. revealed that the parties who have purportedly made the impugned advances were related parties

and they did not have the creditworthiness to make the advances. The lack of financial capacity of the parties clearly shows an indication that the sale agreements were only make believe arrangements. Since the assessee failed to furnish the evidence to establish the genuineness of the advance, we do not find any reason to interfere with the order of the CIT(A) and the same is upheld. Ground No.1.1 of the assessee's appeal on this issue is dismissed.

6. Ground No.1.2 is related to the cash deposit of ₹ 19,30,950/- by cheque. The assessee has made cheque deposits of ₹ 19,30,930/- in the Indian Bank of Maharanipecta, Visakhapatnam which is not disclosed to the department. The aggregate cheque deposits made in the bank account were ₹ 26,80,476/- out of which ₹ 7,49,506/- was held to be the receipts from Orissa Stevedores which was accepted by the A.O. For the remaining amount, the assessee has neither explained the source of credit with names and parties from whom the amounts were received nor the expenditure incurred in connection with the receipt of ₹ 19,30,930/-. Therefore, the A.O. treated the entire deposit of ₹ 19,30,930/- as unexplained money and accordingly brought to tax. The Ld. CIT(A) confirmed the addition since the assessee failed to furnish any information whatsoever with regard to the cheque receipts.

For the sake of clarity we extract relevant part of the Ld.CIT(A)'s order which reads as under:

*"4.6 The perusal of the bank accounts with Indian Bank, which were not disclosed to the Department, show that there were cheque deposits to the tune of Rs.26,80,436/- of which Rs.7,49,506/- was explained to relate to receipts from M/s. Orissa Stevedores and for which ledger extract of M/s.Orissa Stevedores was filed. With regard to the remaining cheque deposits amounting to Rs.19,30,930/the assessee was not able to explain and prove the nature of these receipts. It is noted that the AO had given several opportunities to prove the nature of these receipts. But the assessee failed to prove that these receipts were from his business operation. No information whatsoever, was filed in regard to these cheque receipts. Therefore, the AO is justified in assessing the amount of Rs.19,30,930/- as unexplained income of the assessee. The plea reiterated during the appeal proceedings that they were business receipts was not substantiated and hence rejected."*

7. During the appeal hearing before us, the Ld. A.R. stated that these deposits were the business receipts but no evidence was furnished with regard to the source of deposits as well as expenditure incurred in connection with the earning of this money. Therefore it is established that the cheque deposits were from unexplained sources and the Ld.CIT(A) has rightly confirmed the addition. Hence, we do not find any infirmity in the order of the CIT(A) and the same is upheld. In the result, the appeal of the assessee on this ground is dismissed.

8. Ground No.1.3 is related to the estimation of income @ 5%. The Ld. A.R. argued during the appeal hearing that the Ld. CIT(A) considered the percentage of profit @ 4% in the immediately preceding

assessment year i.e. A.Y 2009-10, hence requested to adopt the estimation of income @ 4% instead of 5% confirmed by the Ld. CIT(A). Ld. CIT(A) held that estimation of income @ 5% was reasonable after considering the entire material placed before him and observed that the assessee had agreed for estimation of income @ 5% in his letter dated 21.3.2013 filed before the A.O. For ready reference, we extract relevant paragraph of the order of the Ld. CIT(A) made available in para No.4.4, which reads as under:

*"4.4 I have considered the above submissions made vide paper book dated 40.12.2014 and written submissions dated 28.1.2016. I have also perused the assessment folder. It is not in dispute that the assessee could not produce proper bills & vouchers for expenses, and as most of the expenses were in cash they were not verifiable. Therefore, the AO is justified in rejecting the books of account. It is also relevant to note that the assessee has agreed for estimation of business receipts at 5% in his letter dated 21.3.2013 filed before the AO. It is also pertinent to note that for the relevant year, the assessee's turnover has increased fourfolds and hence, considering the nature of business and other overall facts of the case, I consider that the estimate of the business receipts at 5% is fair and reasonable and the same is upheld."*

9. From the order of the CIT(A), it is established that the assessee had agreed for estimation of income @ 5% before the A.O. Both the A.O. and Ld. CIT(A) have estimated the income @ 5% after careful consideration of the net profit of earlier years and considering the fact that the assessee failed to produce the books of accounts. The A.O. has rejected the books of accounts and estimated the income. The Ld. A.R. did not make out a case for estimation of income @ 4% with

relevant evidences except arguing that earlier percentage of income required to be adopted. We are unable to consider the request of the assessee to reduce the estimation of income without placing the material to substantiate that the estimation of profit @5% was unreasonable. Therefore, we uphold the order of the CIT(A) and dismiss the appeal of the assessee.

10. The Ld. A.R. during the appeal hearing requested to allow telescopic benefit of estimated income for the additions made independently i.e. cash credits and cheque deposits. However, the Ld. A.R. did not make out a case for allowing the telescopic benefit by furnishing the necessary details. Therefore, we do not find any justification for allowing the telescopic benefit and request of the Ld. A.R. is hereby rejected.

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

The above order was pronounced in the open court on 9<sup>th</sup> Feb'18.

Sd/-

(वी. दुर्गाराव)

**(V. DURGA RAO)**

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

विशाखापटणम /Visakhapatnam:

दिनांक /Dated : 9.2.2018

VG/SPS

Sd/-

(डि.एस. सुन्दर सिंह)

**(D.S. SUNDER SINGH)**

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

1. अपीलार्थी / The Appellant – Korapolu Kanaka Raju, D.No.16-3-3, Official Colony, Maharanipeta, Visakhapatnam
2. प्रत्यर्थी / The Respondent – The ITO, Ward-1(4), Visakhapatnam
3. आयकर आयुक्त / The Principal CIT-1, Visakhapatnam
4. आयकर आयुक्त (अपील) / The CIT (A)-1, Visakhapatnam
5. विभागीय प्रतिनिधि, आय कर अपीलीय अधिकरण, विशाखापटणम / DR, ITAT, Visakhapatnam
6. गार्ड फ़ाईल / Guard file

आदेशानुसार / BY ORDER

// True Copy //

Sr. Private Secretary  
ITAT, VISAKHAPATNAM

