

**IN THE INCOME TAX APPELLATE TRIBUNAL  
Hyderabad ' A ' Bench, Hyderabad**

**Before Smt. P. Madhavi Devi, Judicial Member  
AND  
Shri S.Rifaur Rahman, Accountant Member**

**ITA No.92/Hyd/2017**  
(Assessment Year: 2011-12)

Shri K. Vijaya Kumar Vs Income Tax Officer  
Tirupati Ward 2(2)  
PAN:ADSPK6493L Tirupati  
(Appellant) (Respondent)

For Assessee : Shri K. Vijaya Kumar  
For Revenue : Smt. Suman Malik, DR

Date of Hearing: 06.04.2018  
Date of Pronouncement: .04.2018

**ORDER**

**Per Smt. P. Madhavi Devi, J.M.**

This is assessee's appeal for the A.Y 2011-12 against the order of the learned CIT (A)-Tirupathi, dated 23.11.2016. The assessee has raised the following grounds of appeal:

*"1. The order of the AO is erroneous in law and in facts and circumstances of the case;*

*2. The AO erred in concluding the assessment Ex-parte under section 144 of Income tax act, 1961 without affording proper opportunity to me (the appellant) and without properly examining the facts of the case in detail and also without considering all the evidences/ documents submitted;*

*3. The Learned AO erred in making addition of Rs.9,42,194/-towards arrears of salary which was directly credited to the GPF account. The AO ought to have considered the fact that, the arrears were credited to the GPF account on the condition put by the Govt. of A.P. that "Out of the arrears amount so credited, 80% will be*

*permitted to be withdrawn after the amount is received from the Government of India and the balance 20% will continue to remain in the Provident Fund." The learned AD should have considered the above fact before making addition of the same.*

*4. The Learned AO erred in adding the House Rent Allowance of Rs.65,386/- towards non submission of proofs without considering the explanations offered during the course of assessment proceedings.*

*5. The AO erred and has not made any efforts to find out the whereabouts of me before completing the assessment exparte, since I was out of station quite for a long time in connection with the medical treatment for myself due to ill health.*

*6. I pray that the above additions may kindly be deleted."*

2. At the time of hearing, the learned Counsel for the assessee submitted that the assessment was completed u/s 144 of the Act and even the CIT (A)'s order has been passed ex-parte and prayed for remand of the issue to the file of the AO for consideration of the issues on merits.

3. The learned DR was also heard.

4. Having gone through the material on record, we find that the assessment was reopened u/s 147 of the Act by issuance of a notice u/s 148 dated 14.8.2013, calling for the returns of income for the A.Y 2011-12 and the notice u/s 142(i) was issued on 20.09.2013. Thereafter, the date of hearing was fixed on 22.12.2014, on which date, the assessee appeared and requested for time to file the revised return. Thereafter, another notice u/s 142(1) was issued to the assessee on 4.2.2015 and thereafter, since the assessment was getting it is a time barred, and no

return was filed u/s 148, the assessment was completed ex-parte u/s 144 of the Act. Even before the CIT (A), the assessee did not appear on the date of hearing fixed i.e on 05.10.2013 and therefore, the CIT (A) confirmed the assessment order.

5. Having regard to these facts, we are of the opinion that the assessment should be set aside to the file of the AO for de novo consideration in accordance with law. The assessee is also directed to appear and produce the relevant documents before the AO and cooperate with him for an early completion of the assessment.

6. In the result, assessee's appeal is treated as allowed for statistical purposes.

Order pronounced in the Open Court on 11<sup>th</sup> April, 2018.

**Sd/-**  
**(S.Rifaur Rahman)**  
**Accountant Member**

**Sd/-**  
**(P. Madhavi Devi)**  
**Judicial Member**

Hyderabad, dated 11<sup>th</sup> April 2018.

**Vinodan/sps**

Copy to:

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- 3 CIT (A)-Tirupati
- 4 Pr. CIT - Tirupati
- 5 The DR, ITAT Hyderabad
- 6 Guard File

*By Order*