

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

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

ITA No.1606/Hyd/2018
(Assessment Year: 2013-14)

Sri Shankar Bobbili, Vs Income Tax Officer
Karimnagar Ward - 4
PAN:BJUPB1823L Karimnagar
(Appellant) (Respondent)

For Assessee : Shri A.V. Raghuram
For Revenue : Shri Nilajan Dey, DR

Date of Hearing: 21.02.2019
Date of Pronouncement: 15.03.2019

ORDER

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

This is assessee's appeal for the A.Y 2013-14 against the order of the CIT (A)-2, Hyderabad, dated 31.05.2018.

2. Brief facts of the case are that the assessee, an individual, engaged in real estate business, filed his return of income for the A.Y 2013-14 on 30.12.2014 declaring total income of Rs.2,24,950/-. During the assessment proceedings u/s 143(3) of the Act, the AO brought to tax a sum of Rs.34,767/- towards interest income not declared and Rs.64,54,800/- towards short term capital gains. Aggrieved, the assessee preferred an appeal before the CIT (A), but since the assessee did not appear before the CIT (A), the CIT (A) decided the assessee's appeal ex-parte

confirming the order of the AO and the assessee is in second appeal before us by raising the following grounds of appeal:

“1. The order of the learned CIT (A) is not only erroneous both on facts and in law but is contrary to the principles of natural justice.

2. The learned CIT (A) erred in dismissing the appeal holding no one appeared and no written submissions are filed.

3. The learned CIT (A) failed to appreciate that the Counsel appeared on 29.8.2017 and filed written submissions which are acknowledged by the learned CIT (A) office which unfortunately is not noticed by him.

4. The learned CIT (A) ought to have considered the written submissions and the material filed and ought to have decided the grounds on merits.

5. Any other ground that may be urged at the time of hearing”.

3. The learned Counsel for the assessee submitted that the assessee had filed written submission before the CIT (A), therefore, according to him, the CIT (A) ought to have disposed of the appeal after taking into consideration the written submission. He prayed that the matter may be restored to the file of the CIT (A) for reconsideration of the issue.

4. The learned DR was also heard.

5. Having regard to the rival contentions and the material on record, we find that the CIT (A) himself has recorded the dates of hearing and has recorded that the assessee has filed the written submissions on 31.08.2017. Therefore, we agree with the contention of the learned Counsel for the assessee that he ought

to have disposed of the appeal on merits after considering the written submissions filed by the assessee. Since the assessee also did not appeal before the CIT (A), we deem it proper to remand the issue to the file of the CIT (A) with a direction to dispose of the appeal on merits after giving the assessee a fair opportunity of hearing.

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

Order pronounced in the Open Court on 15th March, 2019.

Sd/-
(S.Rifaur Rahman)
Accountant Member

Sd/-
(P. Madhavi Devi)
Judicial Member

Hyderabad, dated 15th March, 2019.

Vinodan/sps

Copy to:

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- 2 ITO Ward 11(3) 10th Floor, Signature Towers, Kondapur, Hyderabad
- 3 CIT (A)-2, Hyderabad
- 4 Pr. CIT – 2 Hyderabad
- 5 The DR, ITAT Hyderabad
- 6 Guard File

By Order