

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCH "A", HYDERABAD**

**BEFORE SMT. P. MADHAVI DEVI, JUDICIAL MEMBER
AND
SHRI A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER**

ITA Nos.255 to 263/Hyd/2018		
Assessment Year: 2008-09 to 2016-17		
M/s. Neueon Towers Limited, (Formerly known as Sujana Towers Limited) Hyderabad. PAN: AAKCS 7820 F	Vs.	ACIT (TDS), Circle-2(1), Hyderabad.
(Appellant)		(Respondent)
Assessee by:	Sri P. Murali Mohan Rao	
Revenue by:	Smt. V. Aparna, DR	
Date of hearing:	20/06/2019	
Date of pronouncement:	03/07/2019	

ORDER

PER A. MOHAN ALANKAMONY, AM.:

All these appeals are filed by the assessee against the separate Orders of the Ld. CIT(A)-8, Hyderabad in Appeal Nos. B2-52/2016-17 to B2-60/2016-17, dated 24/11/2017 passed U/s. 221(1) & 250(6) of the Act for the assessment years from 2008-09 to 2016-17 respectively. The issues involved in all these appeals are same, therefore, for the sake of convenience, all these appeals are heard together and disposed off by this common order.

2. The assessee has raised several grounds in all its appeals, however the crux of the issue is that the Ld. CIT (A) has erred in confirming the penalty levied by the Ld. AO U/s 221(1) of the Act for the Asst. Years 2008-09 to 2017-18.

3. Brief facts of the case are that the assessee is a Limited Company engaged in the business of Iron & Steel Products such as Transmission / Telecom Towers and Technological Structure Fabrication products. It was observed by the Ld. ACIT (TDS) that the outstanding aggregate demand of tax for the FY 2007-08 to 2016-17 was Rs. 30,35,000/-. On query the assessee vide letter dated 07/11/2016 has replied stating that for the same relevant financial years the demand of tax intimated earlier was Rs. 51,97,385/- and thereafter it was reduced to Rs. 32,09,504/-. Further in the same reply request was made for grant of 30 days' time in order to rectify the mistakes and to file the necessary returns. However, the assessee had not responded even after 30 days. Therefore, the Ld. ACIT (TDS) invoked the penal provision U/s 221(1) of the Act @ 10% of the total default amounting to Rs. 6,44,530/- for the FY 2007-08; Rs. 4,14,010/- for the FY 2008-09; Rs. 2,47,600/- for the FY 2009-10; Rs.3,17,450/- for the FY 2010-11; Rs. 1,93,850/- for the FY 2011-12; Rs. 5,28,010/- for the FY 2012-13; Rs. 2,76,560/- for the FY 2013-14; Rs. 1,94,110/- for the FY 2014-15; Rs. 1,18,710/- for the FY 2015-16 and Rs. 1,00,170/- for the FY 2016-17 aggregating to Rs.

30,35,000/-. On appeal, Ld.CIT (A) confirmed the order of the Ld. ACIT (TDS) by agreeing with his view.

4. At the outset, the Ld.AR submitted before us that the assessee was denied reasonable opportunity of being heard before the Ld. Revenue Authorities and therefore the case could not be properly represented. It was further submitted that, though there were discrepancies which were required to be rectified, the Ld. ACIT (TDS) hastily invoked penal provisions U/s. 221 of the Act for default of non-payment of tax thereafter in the appellate proceedings the Ld. CIT (A) also upheld the order of the Ld. ACIT (TDS) without affording proper opportunity to the assessee of being heard. It was therefore pleaded that the appeals may be remitted back to the file of the Ld. ACIT (TDS) for de-novo consideration. The Ld. DR on the other hand vehemently opposed to the submissions of the Ld. AR and pleaded for confirming of the orders of the Ld. Revenue Authorities.

5. We have heard the rival submission and carefully perused the materials on record. On reading the order of the Ld. ACIT (TDS) it appears that there are certain disparities in the demand of tax raised by the Ld. Revenue Authorities which is required to be either rectified or reconciled with the computation submitted by the assessee. On the earlier occasion before the Ld.AO the assessee had also sought time for

rectifying the same which was granted but, the assessee has failed to do so within the time. However, the assessee has also raised the ground before us stating that proper opportunity was not offered to the assessee of being heard. Considering all these facts, in the interest of justice, we are of the considered view that the appeals are required to be remitted back to the file of Ld. ACIT (TDS) in order to re-examine the entire matter because without arriving at the correct demand of outstanding tax and reasons for the non-payment of tax it would neither be appropriate to arrive at the quantum of penalty nor levy penalty. Accordingly, we hereby remit the appeals back to the file of Ld. ACIT(TDS) for fresh consideration and to pass appropriate orders in accordance with law and merits after affording proper opportunity to the assessee of being heard.

6. In the result, all these appeals are allowed for statistical purposes.

Pronounced in the open Court on 03rd July, 2019.

Sd/-
(P. MADHAVI DEVI)
JUDICIAL MEMBER

Sd/-
(A. MOHAN ALANKAMONY)
ACCOUNTANT MEMBER

Hyderabad, Dated: 03/07/2019

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Copy to:-

- 1) Neueon Towers Limited C/o. P. Murali & Co., Chartered Accountants, 6-3-655/2/3, Ist Floor, Somajiguda, Hyderabad-82.

- 2) ACIT(TDS), Circle-2(1), Hyderabad.
- 3) The CIT(A)-8, Hyderabad
- 4) The Pr. CIT-8, Hyderabad
- 5) The DR, ITAT, Hyderabad
- 6) Guard File