

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

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

ITA No.376/Hyd/2019		
Assessment Year: 2010-11		
Sri Sai Sindhura Poly Products, Hyderabad. PAN: AAJFS 6277 Q	Vs.	ACIT, Circle-15(1), Hyderabad.
(Appellant)		(Respondent)
Assessee by:	Sri A.V. Raghuram	
Revenue by:	Sri Nilanjan Dey, DR	
Date of hearing:	20/06/2019	
Date of pronouncement:	03/07/2019	

ORDER

PER A. MOHAN ALANKAMONY, AM.:

This appeal is filed by the assessee against the order of the Ld. CIT(A)-7, Hyderabad dated 05/03/2019 in appeal No. 0115/CIT(A)-7/2017-18, passed U/s. 154 & U/s. 250(6) of the Act for the assessment year 2010-11.

2. The assessee has raised three grounds in its appeal, however, the crux of the issue is that Ld. CIT (A) has erred by upholding the order of the Ld. AO who had failed to rectify the inadvertent mistake committed

by the assessee in the return of income e-filed which was pointed out by the assessee before the Ld. AO.

3. The brief facts of the case as submitted by the Ld. AR before us are that the assessee had disclosed in its e-return of income by mistake an amount of Rs. 66,22,048/- under the head 'any other income' in Schedule-BP-Item-A 23 (page 13 of the paper book) whereas the same amount was already disclosed as Rs. 65,60,472/- as profit before taxes in Part A-P&L, 1, item No.43 of the return of income (Page 8 of the paper book). Thereafter, the return was processed by the Centralized Processing Centre, Bangalore U/s. 143(1) of the Act on 07/12/2011 wherein the returned "business income" of Rs. 66,12,061/- and "any other income" of Rs. 66,22,050/- aggregating to Rs. 1,32,34,110/- was treated as the total Income after deductions against which demand of tax was computed. The Ld. AR further submitted that the duplicity of the income disclosed in the e-return of income was pointed out to the Ld. AO by filing a rectification return on 03/11/2014, and thereafter by filing a rectification petition U/s. 154 of the Act on 30/08/2017 seeking rectification of the mistake. It was further submitted by the Ld. AR that the Ld. AO had rejected the rectification petition filed by the assessee dated 30/08/2017 vide his letter dated 25/10/2017 by stating that, though the assessee has e-filed his return of income at Rs. 66,22,050/- the return was processed by CPC Bangalore arriving at the total income

of Rs. 1,32,34,110/- as the assessee had shown his business income in his e-return of income at Rs. 66,12,061/- and under the head 'any other income'Rs. 66,22,050/-. The Ld. AR further submitted that the Ld. CIT (A) had also dismissed the appeal of the assessee on technical grounds. The Ld. AR further argued by stating that making addition in the hands of the assessee due to the inadvertent mistake committed by the assessee in the e-return of income is not justifiable and the same may be deleted. The Ld. DR on the other hand argued in support of the orders of the Ld. Revenue Authorities.

4. We have heard the rival submissions and carefully perused the materials on record. From the facts of the case it appears that certain mistake has crept into the order processed by the CPC u/s 143(1) of the Act due to the inadvertent mistake committed by the assessee in the e-return filed. In such situation it is the primary duty of the Ld. AO having jurisdiction to take appropriate steps in order to rectify the mistake and grant relief to the assessee. The assessee cannot be taxed on an income wrongly declared in the return of income by mistake because the assessee has not earned such income. Just because certain genuine mistakes were committed while filing the e-return of income does not provide sanction to the Revenue to tax such income wrongly included. There is no provision in the Act to do so. Therefore in the interest of justice we hereby remit the matter back to the file of the Ld.AO with

directions to verify the claim of the assessee and if it is found that the assessee had by mistake shown certain figures as income in the e-return of income twice then the Ld. AO shall rectify such mistake and the correct income shall be arrived at and taxed. However if it is found otherwise the Ld.AO shall pass appropriate Order in accordance with merits and law after affording proper opportunity to the assessee of being heard. It is Ordered accordingly.

5. In the result the appeal of the assessee is allowed for statistical purposes as indicated herein above.

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

Sd/-
(P. MADHAVI DEVI)
JUDICIAL MEMBER

Sd/-
(A. MOHAN ALANKAMONY)
ACCOUNTANT MEMBER

Hyderabad, Dated: 03rd July, 2019

OKK

Copy to:-

- 1) Sri Sai Sindhura Poly Products, Flat No.610, 6th Floor, Babukhan Estate, Basheerbagh, Hyderabad – 500 001.
- 2) ACIT, Circle-15(1), 5th Floor, IT Towers, A.C. Guards, Masabtank, Hyderabad-004.
- 3) The CIT(A)-7, Hyderabad
- 4) The Pr. CIT-7, Hyderabad
- 5) The DR, ITAT, Hyderabad
- 6) Guard File