

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

**BEFORE SHRI A. MOHAN ALANKAMONY
ACCOUNTANT MEMBER**

ITA No.272/Hyd/2018	
Assessment Year: 2014-15	
U. Venkateswara Rao, 8-3-883/86, Kamalapuri Colony, Srinagar Colony, Hyderabad. PAN: AAFPU 4103 M	Vs. Income Tax Officer, Ward-6(4), Hyderabad.
(Appellant)	(Respondent)
Assessee by:	Sri Ch. G. Muralikrishna Murthy
Revenue by:	Smt. Neeju Gupta, DR
Date of hearing:	18/07/2019
Date of pronouncement:	24/07/2019

ORDER

PER A. MOHAN ALANKAMONY, AM.:

This appeal was filed by the assessee against the order of the Ld. CIT(A)-6, Hyderabad dated 12/01/2018 in appeal No.10485/2016-17/B2/CIT(A)-6 passed U/s. 143(3) r.w.s 250(6) of the Act for the assessment year 2014-15.

2. In this appeal, the assessee has raised the following grounds:

- "1. *The order of the Ld' Commissioner of Income Tax (A) is against the principles of natural justice in so far as it relates to the facts and circumstances of the case.*
2. *The Ld' Commissioner of Income Tax (A) ought to have given enough opportunity to explain and substantiate the appellant" s claim and thus erred in passing the order in great haste.*

3. *The Ld' Commissioner of Income Tax (A) grossly erred in coming to an erroneous conclusion that the appellant had discontinued business operations which is wholly against the facts of the case.*
4. *The Ld' Commissioner of Income Tax (A) failed to appreciate the fact that the appellant had commercially exploited the assets and also incurred basic administrative expenditure for the continuance of the business, on account of interruption in the business activities because of poor health conditions.*
5. *The Ld' Commissioner of Income Tax (A) further erred in confirming the addition of the AO by disallowing the setoff of income from house property against the business loss under section 71 of the Act. treating the impugned transaction, i.e. security deposit, as loan / advance.*
6. *The Ld' Commissioner of Income Tax (A) also erred on the citations mentioned in the impugned order without giving any opportunity to explain their inapplicability to the facts of the case.*
7. *The appellant reserves the right to add, alter, delete or modify any of these grounds of appeal at the time of hearing.*
8. *For these and other grounds that may be urged at the time of hearing, the appellant prays for the set off of the business loss against the income from house property.”*

3. At the outset, the Ld. AR submitted before us that the Ld. CIT (A) has passed ex-parte order without affording an opportunity to the assessee of being heard. It was further submitted that on merits the assessee has a fair chance to succeed in his appeal and also argued the case on merits. Thereafter the Ld.AR pleaded that the matter may be remitted back to the file of Ld. CIT (A) in the case of the assessee for fresh consideration thereby affording the assessee one more opportunity of being heard. The Ld. DR vehemently opposed to the submission of the Ld. AR and argued by stating that the Ld. CIT (A) had posted the case for hearing on 11/01/2018. However, neither the assessee nor the Ld. AR appeared before the Ld. CIT (A) in order to

pursue the case on the date of hearing and therefore, the Ld. CIT(A) disposed of the case based on the written submissions filed by the assessee. The Ld. DR therefore requested that the appeal of the assessee may be dismissed.

4. I have heard the rival submissions and carefully perused the materials on record. On perusing the order of the ld. CIT (A) I find that the Ld. CIT (A) has posted the case for hearing however, none appeared before the Ld. CIT (A), therefore the Ld. CIT (A) had left with no other option except to pass ex-parte order on merits based on the materials on record. In these circumstances I do not find any fault on the part of the Ld. CIT (A). However, considering the facts and circumstance of the case wherein the assessee has a fair chance to succeed, in the interest of justice, I hereby remit the matter back to the file to the Ld. CIT(A) to consider the issue afresh and to pass appropriate Order in accordance with merits and law after affording proper opportunity to the assessee of being heard. At the same time, I also direct the assessee and his representative to promptly co-operate before the Ld. Revenue Authorities in their proceedings failing which they shall be at liberty to pass appropriate order based on law and merits taking into consideration of the materials on record.

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

Pronounced in the open Court on 24th July, 2019.

Sd/-
(A. MOHAN ALANKAMONY)
ACCOUNTANT MEMBER

Hyderabad, Dated: 24th July, 2019

OKK

Copy to:-

- 1) U. Venkateswara Rao C/o. M/s. Ch. G. Krishna Murthy & Co., Chartered Accountants, 133/1, Prenderghast Road, Secunderabad – 500 003.
- 2) Income Tax Officer, Ward-6(4), Hyderabad.
- 3) The CIT(A)-6, Hyderabad
- 4) The Pr. CIT-6, Hyderabad
- 5) The DR, ITAT, Hyderabad
- 6) Guard File