

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

BEFORE SHRI A. MOHAN ALANKAMONY,
ACCOUNTANT MEMBER

	ITA No.1213/Hyd/2018		
	Assessment Year: 2014-15		
Kadam Suryanarayan, Bhainsa, Telangana- 504103. PAN: AVXPK 7646 N	Vs.	Income Tax Officer, Ward-1, Nirmal.	
(Appellant)		(Respondent)	
Assessee by:	Sri C.V.S. Balachandra Rao		
Revenue by:	Sri R.S. Arvindakshan, DR		
Date of hearing:	25/07/2019		
Date of pronouncement:	26/09/2019		

ORDER

PER A. MOHAN ALANKAMONY, AM.:

This appeal is filed by the assessee against the order of the Ld. CIT(A)-5, Hyderabad in appeal No. 0489/2016-17/CIT(A)-5 dated 09/03/2018 passed U/s. 143(3) r.w.s 250(6) of the Act for the assessment year 2014-15.

2. The assessee has raised the following grounds in this appeal:-

- “1. *The order of the CIT(A) is erroneous both on facts and the law.*
2. *In M/s. Krishna Traders, the CIT(A) erred by estimating the income i.e, 5% on the difference amount between the bank credits and sales turnover reported in the books as income.*

3. *The CIT(A) erred in passing the order, by estimating the income from deposits in savings account at 10% whereas for the same CIT(A) has accepted 5% of net profit on turnover in the case M/s. Krishna Traders, now requesting yourselves accept and pass an order for 5% of net profit on bank credits of HDFC Bank (which was not reported in the return of income tax) ie., Rs. 47,75,191/- Assessee 5% = Rs. 2,38,760/-)”*

3. At the outset, the Ld. AR submitted before us that the Ld. CIT (A) has passed an ex-parte order without providing an opportunity to the assessee of being heard. It was therefore pleaded that the matter may be remitted back to the file to the Ld CIT (A) in order to provide one more opportunity to the assessee to pursue the appeal. The Ld DR on the other hand submitted that several opportunities have been provided to the assessee however, the assessee and his representative failed to cooperate with the Ld. CIT (A) in his proceedings. Since, neither the assessee nor his Counsel was present at the time of hearing during several occasions, the Ld. CIT (A) was forced to pass ex-parte order on merits based on the materials on record. It was therefore requested that the Orders of the Ld. Revenue Authorities may be confirmed.

4. I have heard the rival submissions and carefully perused the materials on record. On perusing the order of the Ld. CIT (A), it is apparent that the appeal was posted for hearing on 23/08/2017, 11/09/2017, 31/10/2017, 10/11/2017, 19/02/2018 and finally on 05/03/2018. In all these occasions, neither the assessee nor his

Counsel appeared before the Ld. CIT (A). Therefore, the Ld. CIT (A) was right in his rem to adjudicate the appeal ex-parte on merits based on the materials on record. In this situation we do not find much strength in the arguments advanced by the ld. AR. However, leniently considering the prayer of the Ld. AR, in the interest of justice, we hereby remit the matter back to the file of Ld. CIT (A) in order to consider the appeal afresh by providing one more opportunity to the assessee of being heard. At the same breath we also hereby caution the assessee to promptly cooperate before the Revenue in their proceedings failing which the Ld. CIT (A) shall be at liberty to pass appropriate order on merits based on the materials on the record.

5. In the result, appeal of the assessee is allowed for statistical purposes.

Pronounced in the open Court on 26th September, 2019.

Sd/-
(A. MOHAN ALANKAMONY)
ACCOUNTANT MEMBER

Hyderabad, Dated: 26th September, 2019

OKK

Copy to:-

- 1) Kadam Suryanarayana C/o. CVS. Balachandra Rao, Chartered Accountant, D.No. 4-4-214, Inderbagh, Sultan Bazar, Koti, Hyderabad.
- 2) Income Tax Officer, Ward-1, Nirmal.

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